



October 18, 2013

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Re: Preliminary Determination: Audit and Analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012.

Dear Mr. Meara:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's Equal Employment Opportunity (EEO) Program for the period covering July 1, 2009 to June 30, 2012.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 831(d)(2) provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

The New York City Council, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau,



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corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

The purpose of this audit and analysis is to evaluate the agency's EEO Program, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Equal Employment Opportunity Commission's Instructions to Federal Agencies for EEO, Management Directive 715; and Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7). Recommendations for corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review the plans adopted by city agencies and to recommend actions which such agencies should consider including in their annual plans, the audited agency should incorporate the recommended corrective actions in its EEO Program and prospective Agency-Specific EEO Plans.

### **Scope and Methodology**

This Commission's audit methodology includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; responses to the *EEPC Employee Survey* and the *EEPC Supervisor/Manager Survey*; and, if applicable, review of *Agency Specific EEO Plans* and *Quarterly EEO Reports*; and analysis of workforce and utilization data from the Citywide Equal Employment Database System (CEEDS).

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Agency Counsel and Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct a follow-up discussion/interview with EEO professionals, when appropriate.

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<sup>1</sup> Corresponding audit/analysis standards are numbered throughout the document.



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To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our surveys. A minimum response rate of 20% is desired. Survey results are used to support audit findings and are attached to each audit as appendices. The *EEPC Employee Survey* received a response rate of 31% (221 of 703 employees). The *EEPC Supervisor/Manager Survey* received a response rate 43% (47 of 109 supervisors/managers). (See Appendices 1 and 4.)

In addition, this Commission reviews data from the Citywide Equal Employment Database System (CEEDS) to understand the concentrations of race and gender groups within an agency's workforce. EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, auditors assess whether the agency has undertaken reasonable measures to address it.

### **Description of the Agency**

The City Council is the Legislative branch of City government. Its members are elected every four years and represent districts of approximately 160,000 people. According to the City Charter, the composition of the current 51 members are; ten from Manhattan, eight from the Bronx, fourteen from Queens, sixteen from Brooklyn, and three from Staten Island. The Council is comprised of a Central Staff, that supports the work of the Council as a whole, and district office staff, who work for individual Council Members. Staff members in district offices are referred to as councilmanic aides.

In addition to its legislative role and oversight powers over the activities of City agencies, the Council approves the City's budget and has decision-making powers over land use issues.

### **PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS**

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

#### **I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:**

**Determination:** The agency is in compliance with the standards for this subject area.

1. Distribute the Citywide or an agency EEOP – in paper or electronic copy – to legal, human resources and EEO professionals, as well as managers and supervisors. At minimum, include, or attach as addenda: a policy against Sexual Harassment; uniform complaint and reasonable accommodation procedures that conform to federal, city and state laws prohibiting discrimination in employment; contact information for the EEO professionals;



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an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for federal, state and local agencies that enforce laws against discrimination.

2. Distribute an agency EEO Policy, or a copy of the EEO Policy Handbook, *About EEO: What You May Not Know*, to current/new employees and/or ensure that a copy is available via intranet or website.
- ✓ In January 2011, the agency distributed the *New York City Council Anti-Discrimination and Harassment Policy* to employees via email and mail distribution. The policies included an up-to-date list of protected classes, and established an internal review process for employees and applicants for employment who wish to file complaints of unlawful employment discrimination, harassment, or retaliation. In addition, 100% of the respondents to the *EEPC Supervisor/Manager Survey* who participated in new employee orientation sessions indicated information on the EEO policies was included. Also, 72% of respondents to the *EEPC Employee Survey* indicated when hired, they were advised of the EEO policies, and of their rights and responsibilities under the policies, and 55% of respondents to the *EEPC Supervisor/Manager Survey* indicated when hired, they received an orientation session that included a review of the EEO policy.
3. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and providing employees pertinent electronic links to the EEO Policy/Handbook/Addenda.
- ✓ The agency head issued an EEO Policy Statement in January and November 2011 via email, mail distribution and bulletin board, that reiterated commitment to EEO, declared the agency's position against discrimination on any protected basis, and advised employees of the names and contact information of EEO Personnel.
4. Post – on electronic bulletin boards, intranet sites, and at each facility – the EEO policies and complaint procedures. Post the agency head's general EEO Policy Statement wherever the EEO policy and addenda or the EEO handbook is posted.
- ✓ The agency posted its EEO Policies via bulletin board, EEO Policy Statement and contact information for EEO professionals and included it in the new hire packet. In addition, 93% of respondents to the *EEPC Employee Survey* indicated the policies were posted on agency bulletin boards or kept in an area otherwise accessible. Also, 70% of respondents to the *EEPC Supervisor/Manager survey* indicated that the EEO Policy could be found in the HR/Personnel Office, 43% indicated it could be found in the EEO Office, and 98% indicated they received a copy of the agency's EEO Policy Statement. Of respondents to the *EEPC Supervisor/Manager Survey*, 68% indicated the policies are most easily accessible in their office.

## **II. EEO TRAINING FOR AGENCY:**

**Determination:** The agency is in compliance with the standards for this subject area.

1. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on EEO laws and their related rights and responsibilities.
- ✓ The Council ensured that staff members were trained and received EEO information. New employees were required to take Ethics and Harassment & Discrimination Training within the first year of employment and annually thereafter. The training included a component on preventing sexual harassment. In addition, 100% of the respondents to the *EEPC's Supervisor/Manager Survey* indicated they received sexual harassment prevention training. Also, 82% of respondents to the *EEPC Employee Survey* indicated that they received training during the past 3 years, 97% of these respondents who received EEO training indicated the training was very or somewhat informative.

## **III. DISCRIMINATION /SEXUAL HARRASSMENT COMPLAINT & INVESTIGATION PROCEDURES:**

**Summary of Complaint Activity:** The Council reported that there were 7 internal and 1 external discrimination complaints filed during the audit period (see breakdown in Appendix 5). One external complaint, filed in the Eastern District of New York, was pending (Appendix 6). Within the past 5 years, 1 EEO judgment/settlement was filed (Appendix 6). The agency did not provide copies of internal complaints filed and completed during the period in review. As a result, this Commission could not conduct a robust analysis of the agency's complaint and investigation procedures, but concluded the following based on the *Summary of Internal Discrimination Complaints Form* submitted. (Appendix 5)

**Determination:** The agency is not in compliance with the standards for this subject area.

1. Include in the complaint file a *Discrimination Complaint Form* or a complaint that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.
  - The agency did not submit documentation that it generated a complaint file which included a *Discrimination Complaint Form* or a complaint that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination. **Corrective action is required.**

**Corrective Action #1:** Include in the complaint file a *Discrimination Complaint Form* or a complaint that captures: the facts (including pertinent dates) that identify the



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respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.

2. Generate a report labeled "Confidential" consisting of *Facts, Analysis, Conclusion, Recommendation, and Agency Head's Review* at the conclusion of each complaint investigation.

➤ The agency did not submit documentation that it generated a report labeled "Confidential" consisting of *Facts, Analysis, Conclusion, Recommendation, and Agency Head's Review* at the conclusion of each complaint investigation. **Corrective action is required.**

**Corrective Action #2:** Generate a report labeled "Confidential" consisting of *Facts, Analysis, Conclusion, Recommendation, and Agency Head's Review* at the conclusion of each complaint investigation.

3. Internal discrimination complaint files contain written indication of their outcomes and corrective action(s) taken as a result of the determination.

➤ The agency did not submit documentation that it maintained or generated written indication of the outcome and corrective action taken as a result of the determination made in its complaint investigation. **Corrective action is required.**

**Corrective Action #3:** Ensure that internal discrimination complaint files contain written indication of their outcomes and corrective action(s) taken as a result of the determination made in its complaint investigation.

4. The General Counsel assists the agency head in identifying and determining appropriate responses to EEO issues; works with the principal EEO Professional in the implementation of the City's EEO policies and related procedures; informs the principal EEO Professional when external complaints or litigation involving EEO matters are brought against the agency; is available to consult on internal EEO investigations; and is responsible for the investigation of, and response to, external EEO complaints.
- ✓ The General Counsel addressed external complaints by coordinating with the relevant supervisor, EEO Professional and the Council's litigation team to develop an appropriate response.

#### **IV. SELECTION AND RECRUITMENT SYSTEM:**

Summary of Workforce Data: According to workforce data provided by the agency, during the audit period there were 628 hires and 652 separations (Appendix 3). A breakdown of applicant data was not provided. Between July 1, 2009 and June 30, 2012 the total number of employees increased from 657 to 703 (see breakdown Appendix 2). A review of



data provided by the New York City Department of Personnel Citywide Equal Employment Opportunity Database System (work force compared with internal and external pools) revealed underutilizations of protected groups in 6 EEO job categories (Appendix 7).

Note: Some of the turn-over that is reflected in the review period is the result of the 2009 election. Certain Council members were term limited and the employment of their staff members were terminated upon the conclusion of the member's term. Some of those employees may have been re-hired by a different Council member, but that hiring would be treated as a "new" hire. Additionally, the election of new Council members brought a series of new hires, which may have been at least four or five in each office.

**Determination: The agency is not compliance with the standards for this subject area.**

1. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where agencies may otherwise use discretion in hiring.

➤ The agency's recruitment was decentralized. Therefore the agency did not conduct an overall assessment of its recruitment efforts. In addition an assessment of autonomous recruitment in individual units was not conducted. Corrective action is required.

Corrective Action #4: Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where agencies may otherwise use discretion in hiring.

2. The principal EEO Professional, HR Professional, and General Counsel review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

➤ The agency's HR/personnel officer, EEO Professional, and General Counsel did not review the agency's statistical information in an effort to identify barriers, complaints, employments practices, policies and programs. Corrective action is required.



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**Corrective Action #5:** The principal EEO Professional, HR Professional and General Counsel review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

3. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

- The agency did not submit documentation that it assessed the manner in which candidates were selected for employment, to determine whether there was any adverse impact upon any particular racial, ethnic, disability, or gender group.  
**Corrective action is required.**

**Corrective Action #6:** Assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

4. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

- A review of data from the *Citywide Equal Employment Opportunity Database System* (CEEDS) revealed underutilization in titles where the agency had discretion in hiring (Appendix 7). **Corrective action is required.**

**Corrective Action #7:** If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.





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5. Ensure that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).

- Although 53% of respondents to the *EEPC Supervisor/Manager Survey* who interviewed candidates for positions indicated the agency provided training, guide, or both that outlines illegal or discriminatory questions and included instructions for conducting a structured interview, the agency did not submit documentation that it ensured that human resources personnel, managers, supervisors, and other personnel involved in the recruitment and hiring process were trained in EEO and interview, selection and hiring skills. **Corrective action is required.**

**Corrective Action #8:** Demonstrate that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).

6. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

- The agency did not submit documentation that it promoted employee awareness of opportunities for promotion and transfer within the agency, and ensured that its own employees were considered for such opportunities. In addition, only 18% of respondents to the *EEPC Employee Survey* indicated vacant positions were advertised on bulletin boards or other areas accessible to employees in a timely manner. **Corrective action is required.**

**Corrective Action #9:** Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

7. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.

- ✓ When advertising, the agency indicated it is an equal opportunity employer. The five latest job vacancy notices during the period in review (*Deputy Legislative Counsel, Web and Social Media Manager, Press Officer, Senior Policy Analyst, Policy Analyst, and Scheduler*) submitted by the agency included the tag line, The City Council is an equal opportunity employer. When hiring employees for the Council's central staff, who work for the entire Council, not for an individual member, the Council uses job search postings and referrals from a variety of sources, including Council members and employees. The agency did not include a list of recruitment resources. Candidates are interviewed to determine their qualifications for open positions, and relevant supervisors make



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determinations as to which candidates to hire. Council members recruit, interview and hire employees at their discretion.

8. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

- Because the agency's recruitment efforts are decentralized, the agency did not maintain applicant/candidate logs or a tracking system. **Corrective action is required.**

**Corrective Action #10:** Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/  
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

**Determination:** The agency is in partial compliance with the standards for this subject area.

1. Designate a professional (may be referred to as the Disability Rights Coordinator) to ensure compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities; receive, or be notified of, reasonable accommodations requests; and recommend appropriate action to the agency head.
- ✓ The agency's EEO Professional was responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities. The agency submitted documentation of 13 accommodations that were requested/granted during the audit period. In addition, 84% of respondents to the *EEPC Employee Survey* who requested a reasonable accommodation within the past 3 years indicated their accommodation was granted.
  - Although the agency's EEO Professional handled reasonable accommodation requests, 57% of respondents to the *EEPC Employee Survey* indicated they did not know the identity of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state and local laws, as well as city and agency policies pertaining to persons with disabilities (may be referred to as the Disability Rights Coordinator). **Corrective action is required.**

**Corrective Action #11:** Re-distribute the identity and responsibilities of the Disability Rights Coordinator to ensure that employees are aware of this information.

2. Because the employees of the agency are unclassified the provisions of the 55-a program do not apply.
3. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
  - The agency did not submit documentation that employee rights and obligations, and the complaint, investigation, and reasonable accommodation procedures had been made available in appropriate alternative formats, or its policy/procedure on making such information available upon request to employees and applicants for employment with disabilities. **Corrective action is required.**

**Corrective Action #12:** Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

4. Document reasonable accommodation requests and their outcomes.
  - ✓ The agency submitted documentation of 13 accommodations that were requested/granted during the audit period. Their outcomes were included.
5. Develop and implement a plan to demonstrate facilities are accessible to and usable by employees/applicants for employment with physical disabilities: identify the number of locations that are accessible/non-accessible; the distribution of the agency's accessible facilities throughout the City; the distribution of job titles among accessible/non-accessible facilities; barriers in non-accessible facilities and the efforts the agency has taken to determine whether removal of barriers is readily achievable, and if so, to remove them; and the agency responsible for rendering non-accessible facilities accessible. State whether the agency has applied to Department of Buildings for a waiver of the requirements for the alteration of existing facilities or if facilities are exempt.
  - ✓ The Council completed the *EEPC's Checklists to Determine Accessibility for Employees/Applicants with Disabilities*. Its facilities, 250 Broadway (Floors 14, 15, 16, 17, 18, and 30), were accessible to and usable by employees/applicants for employment with disabilities (e.g. facilities contained street accessible entrances,

wheelchair accessible elevators, bell in elevators, wide restroom stalls, grab bars in restroom, and low sink or bathroom fixtures).

Note: During the review period there were approximately 81 district offices. Some Council members have multiple offices, and after the 2009 election, newly elected council members set up new offices, which may have been in locations other than the one(s) used by their predecessor.

- The agency did not complete the EEPC's Checklists to Determine Accessibility for Employees/Applicants with Disabilities for its satellite or district offices. **Corrective action is required.**

**Corrective Action #13:** Establish guidelines for accessibility of the satellite or district offices and implement a plan that will ensure incumbents and new council members receive and adhere to the Council's guidelines, as well as its reasonable accommodation procedures.

#### **VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:**

**Determination:** The agency is in partial compliance with the requirements for this subject area.

1. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, federal and state EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.
  - ✓ The agency appointed a trained EEO Professional with adequate resources to perform the duties of the position. The EEO Professional is knowledgeable regarding city, federal and state EEO laws. In addition, 92% of respondents to the *EEPC Supervisor/Manager Survey* indicated they knew the name of the agency's Principal EEO Professional. Also, 75% of respondents to the *EEPC Employee Survey* indicated they knew the name of the agency's Principal EEO Professional.
  - ✓ The agency head ensured that the EEO Professional interviewed employees who may have had problems/issues with supervisors/managers and elected officials (Council Members), central staff employees and councilmanic aides. The EEO Professional also scheduled meetings with the EEO counsel.
2. Appoint at least one EEO professional of each gender to receive discrimination complaints and conduct investigations.
  - ✓ During the audit period, at least one person of each gender (one female EEO Professional, five female Equal Employment Committee Members, and four male Equal

- Employment Committee Members) was appointed for complaint intake and investigation.
3. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
    - ✓ The Principal EEO Professional has taken *DCAS Trainer Development EEO Practices*, *US EEOC HR Certification Institute Training*, and *DCAS EEO Training*.
    - ✓ The agency's Equal Employment Committee participates in annual training sessions administered to all Council Members and Council employees regarding the Council's Anti-Discrimination and Harassment Policy. The training provided was *Anti-Discrimination & Harassment*. EEC Members also undergo additional annual training regarding the specific duties and functions of the Committee.
  4. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
    - ✓ The Equal Employment Committee is comprised of multiple EEO professionals in the Council. The members are appointed by the Speaker and they work in different office locations. The Speaker appoints no fewer than five Council employees for two-year terms to serve as members of the EEC. The Speaker may also appoint two Council employees for two-year terms to serve as alternate to the EEC. The EEC serves the additional function of investigating all complaints pursuant to the policy and encourages all employees to report discrimination or harassment in violation of its *Anti-Discrimination and Harassment Policy* before it becomes severe or pervasive. If an employee believes that s/he has been subjected to any such harassment s/he may report the conduct to EEC members, as well as to supervisors and the Council's principal EEO Professional. The EEC is responsible for investigating reports of discrimination and harassment. At the conclusion of an investigation, the EEC conveys its findings to the Speaker of the Council, and, when appropriate, to the supervising Council member.
  5. The principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of the EEO policies and related procedures.
    - ✓ The agency's EEO Officer/Assistant Director Administrative Services Division is its principal EEO Professional. The principal EEO Professional's duties included interviewing employees who may have had problems/issues with supervisors/managers and elected officials (Council Members), central staff employees and council aides. Upon completion of interviews, the principal EEO Professional scheduled meetings with the



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Ethics and Employment Counsel, who then scheduled meetings with the Equal Employment Committee to start investigations, determine outcomes and meet with counsel to make final determinations when necessary. The EEO Counsel also led investigations into complaints in violation of the Council's policy against discriminations and harassment.

6. The principal EEO Professional ensures that employees receive EEO training; supervises the EEO-related activities of other EEO professionals; ensures that EEO policies and complaint procedures are posted at each site where the agency conducts business; ensures that EEO policies and procedures are available in alternative formats (i.e., large print, audio tape and/or Braille); and provides guidance and assistance to agency managers, supervisors and human resource professionals in addressing issues relating to equal employment opportunity.
  - ✓ The EEO Counsel led training on the Council's policy against discrimination and harassment for all Council employees, including other lawyers in the office who lead trainings. The agency EEO Policy was distributed via email, mail distribution and bulletin board displays. Also new hires (paid or unpaid), sign a receipt for the copy of the City Council's policy which is a part of all new hire packages.
7. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
  - ✓ The principal EEO Professional reported to the Director and the Deputy Director of Administrative Services Division, who report to the head of the agency, on a day-to-day basis.
    - Although the principal EEO Professional reported to the Deputy Director and Director of Administrative Services Division, the agency's organization chart does not illustrate this reporting relationship. **Corrective action is required.**

**Corrective Action #14:** Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.

8. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
  - The agency did not maintain documentation of meetings and other communications between the agency head (or a direct report to the agency head) and EEO

Professional regarding decisions that impact the administration and operation of the agency's EEO program. Corrective action is required.

**Corrective Action #15:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

**VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:**

**Determination:** The agency is not in compliance with the requirements for this subject area.

1. The agency head directs managers and supervisors to emphasize the agency's commitment to its EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. This directive, and its implementation, is documented.
  - The agency did not submit documentation to demonstrate that managers and supervisors were directed to emphasize the agency's commitment to its EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Corrective action is required.

**Corrective Action #16:** Require that managers and supervisors emphasize the agency's commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Document this requirement and its implementation.

2. Conduct annual performance evaluations of managerial and non-managerial employees.
  - The Council did not ensure that performance evaluations were administered to its employees on an annual basis as required for employers of City employees (managerial and non-managerial). In addition, 87% of respondents to the *EEPC Supervisor/Manager Survey* indicated they did not conduct formal performance evaluations of the employees under their supervision. Corrective action is required.

**Corrective Action #17:** Develop and implement a plan, which includes a timetable, to conduct annual performance evaluations of all managerial and non-managerial employees.

3. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
  - The agency did not provide a managerial evaluation form that contained a rating for EEO. Also, 77% of respondents to the *EEPC Supervisor/Manager Survey* indicated



they were not informed that fulfillment of their EEO responsibilities would be part of their overall performance evaluation and would be considered in determining their eligibility for promotions and merit increases. In addition, 52% of the respondents who indicated they received a performance evaluation within or beyond the past year (58%) indicated it did not include a section that rated their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner (i.e., an EEO component). **Corrective action is required.**

**Corrective Action #18:** Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

#### **VIII. REPORTING STANDARD FOR AGENCY HEAD AFTER IMPLEMENTATION OF ALL CORRECTIVE ACTION:**

1. After implementation of the aforementioned corrective actions, distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

**Compliance Action:** Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

#### **Conclusion**

Pursuant to Chapter 36 of the New York City Charter, your agency has the option to respond to this preliminary determination. Your agency also has the option to request an Audit Exit/Compliance Initiation Meeting. Please email your intention to respond, or meeting request, to [mrmsukh@eepc.nyc.gov](mailto:mrmsukh@eepc.nyc.gov) within 7 days from the date of this letter.

*(Optional Response)* If submitted, your optional response should indicate (with attached documentation) what steps your agency has taken or will take to implement the corrective actions and should be received in our office within 21 days from the date of this letter. We will then issue a Final Determination where we will agree, disagree or require further clarification of the actions your agency has taken or proposed.

*(Optional Meeting)* During the Audit Exit/Compliance Initiation Meeting we will address questions regarding the implementation of corrective action(s), establish a formal six-month compliance monitoring period and discuss the steps your agency should take during the mandatory compliance monitoring period. After consulting with your agency, this Commission will issue its Final Determination.





**Equal Employment  
Practices Commission**

If your agency does not respond to the preliminary determination within 21 days, this preliminary determination will be considered our Final Determination. The EEPC will then send correspondence assigning a 6-month compliance monitoring period. Pursuant to Chapter 36 of the New York City Charter your agency is required to respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Sincerely,



Charise L. Hendricks, PHR  
Executive Director

cc: Peg Toro, Principal EEO Professional

# **Appendix 1**


## **New York City Council**

### **Supervisor/Manager Survey**



# New York City Council: Supervisor/Manager Survey







## 1. City of New York

	Response Percent	Response Count
Agency: 	100.0%	47
answered question		47
skipped question		1

## 2. Which of the following are you?

	Response Percent	Response Count
Supervisor 	63.8%	30
Manager 	36.2%	17
answered question		47
skipped question		1

## 3. How many employees are under your supervision?

	Response Percent	Response Count
5 or less 	53.2%	25
6-10 	29.8%	14
11-20 	8.5%	4
21 or more 	8.5%	4
answered question		47
skipped question		1





#### 4. How long have you worked for this agency?

	Response Percent	Response Count
Over 3 years	85.1%	40
3 years or less	14.9%	7
answered question		47
skipped question		1





#### 5. Each agency head may distribute a statement in support of Equal Employment Opportunity to all employees. Have you received a copy of your agency's EEO Policy Statement?

	Response Percent	Response Count
Yes	97.9%	46
No	0.0%	0
Do not remember	2.1%	1
answered question		47
skipped question		1




**6. In your agency, where can the EEO Policy be found? (Check all that apply.)**

	Response Percent	Response Count
The EEO Office 	42.6%	20
The HR/Personnel Office 	70.2%	33
The Intranet 	14.9%	7
Your Office 	70.2%	33
Do not know	0.0%	0
answered question		47
skipped question		1



**7. Of the choices above, which is most easily accessible to you?**

	Response Percent	Response Count
The EEO Office 	4.3%	2
The HR/Personnel Office 	25.5%	12
The Intranet 	2.1%	1
Your Office 	68.1%	32
answered question		47
skipped question		1



### 8. Is the Discrimination Complaint Procedure included with the EEO Policy?

	Response Percent	Response Count
Yes 	83.0%	39
No 	2.1%	1
Do not know 	14.9%	7
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>



### 9. Do you know the name of your agency's EEO Officer?

	Response Percent	Response Count
Yes 	91.5%	43
No 	8.5%	4
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>




### 10. Did the EEO Officer meet with you, either individually or in a group setting, to discuss your EEO rights as an employee?

	Response Percent	Response Count
Yes 	83.0%	39
No 	17.0%	8
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>




**11. Did the EEO Officer meet with you, either individually or in a group setting, to discuss your EEO responsibilities as a supervisor or manager?**

		Response Percent	Response Count
Yes		80.9%	38
No		19.1%	9
answered question			47
skipped question			1

**12. Did you complete the Department of Citywide Administrative Services' Citywide EEO Computer-Based Training for Managers and Supervisors?**

		Response Percent	Response Count
Yes		20.5%	9
No		38.6%	17
Not applicable		40.9%	18
answered question			44
skipped question			4

**13. How often have you reaffirmed the agency's commitment to the principle of Equal Employment Opportunity during staff meetings within the past year?**

		Response Percent	Response Count
Two or more times		29.8%	14
One time		40.4%	19
At no time		29.8%	14
answered question			47
skipped question			1

**14. How often have you discussed with employees their right to file a discrimination complaint with the agency's EEO Officer during staff meetings within the past year?**

	Response Percent	Response Count
Two or more times	27.7%	13
One time	31.9%	15
At no time	40.4%	19
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>

**15. Did you receive sexual harassment prevention training from your agency?**




	Response Percent	Response Count
Yes	100.0%	47
No	0.0%	0
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>

**16. Did all of the employees that you supervise receive sexual harassment prevention training?**



	Response Percent	Response Count
Yes	100.0%	47
No	0.0%	0
Do not know	0.0%	0
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>




**17. When you were hired, did you receive an orientation session that included a review of the EEO policy?**

	Response Percent	Response Count
Yes 	55.3%	26
No 	12.8%	6
Do not remember 	31.9%	15
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>



**18. Do you participate in orientation sessions for new employees?**

	Response Percent	Response Count
Yes 	25.5%	12
No 	74.5%	35
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>





**19. Do new employee orientation sessions include information on the EEO policy?**

	Response Percent	Response Count
Yes 	100.0%	12
No	0.0%	0
Do not know	0.0%	0
<b>answered question</b>		<b>12</b>
<b>skipped question</b>		<b>36</b>



**20. Do you interview candidates for positions in your agency?**

		Response Percent	Response Count
Yes		80.9%	38
No		19.1%	9
answered question			47
skipped question			1




**21. A structured interview is a method that standardizes the type and order of interview questions asked to ensure that a fair comparison can be made between interviewees. Did your agency provide you with training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview?**

		Response Percent	Response Count
Training		31.6%	12
Guide		5.3%	2
Both training and guide		15.8%	6
Neither		47.4%	18
answered question			38
skipped question			10



**22. Were you informed that fulfillment of your EEO responsibilities will be part of your overall performance evaluation and will be considered in determining your eligibility for promotions and merit increases?**

	Response Percent	Response Count
Yes 	23.4%	11
No 	76.6%	36
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>



**23. When was your last performance evaluation?**

	Response Percent	Response Count
Within the past year 	10.6%	5
Over a year ago 	46.8%	22
I have not received a performance evaluation 	42.6%	20
<b>answered question</b>		<b>47</b>
<b>skipped question</b>		<b>1</b>



**24. Does your performance evaluation include an EEO component? (A section that rates your ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.)**

	Response Percent	Response Count
Yes 	48.1%	13
No 	51.9%	14
<b>answered question</b>		<b>27</b>
<b>skipped question</b>		<b>21</b>






**25. Do you conduct formal performance evaluations of the employees under your supervision annually?**

	Response Percent	Response Count
Yes 	12.8%	6
No 	87.2%	41
answered question		47
skipped question		1



**26. Do you believe the agency has provided sufficient training to supervisors/managers on their responsibilities in assisting employees who may complain about discrimination or harassment?**

	Response Percent	Response Count
Yes 	97.9%	46
No 	2.1%	1
answered question		47
skipped question		1

## 27. Race/Ethnicity

	Response Percent	Response Count
Asian or Pacific Islander 	2.3%	1
American Indian or Alaska Native	0.0%	0
Black (not of Hispanic origin) 	14.0%	6
Hispanic 	16.3%	7
White (not of Hispanic origin) 	62.8%	27
Other 	4.7%	2
answered question		43
skipped question		5

## 28. Gender

	Response Percent	Response Count
Male 	62.8%	27
Female 	37.2%	16
answered question		43
skipped question		5

## **Appendix 2**

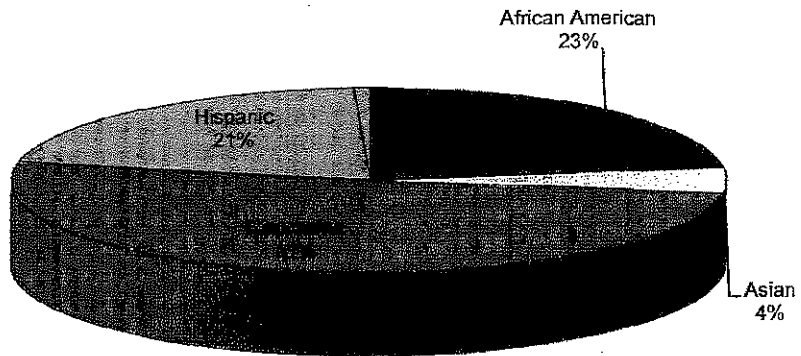
### **New York City Council (NYCC)**

**DIRF Attachment 13 – Agency Workforce**  
**Chart – Workforce by Gender**  
**Chart – Workforce by Ethnicity**

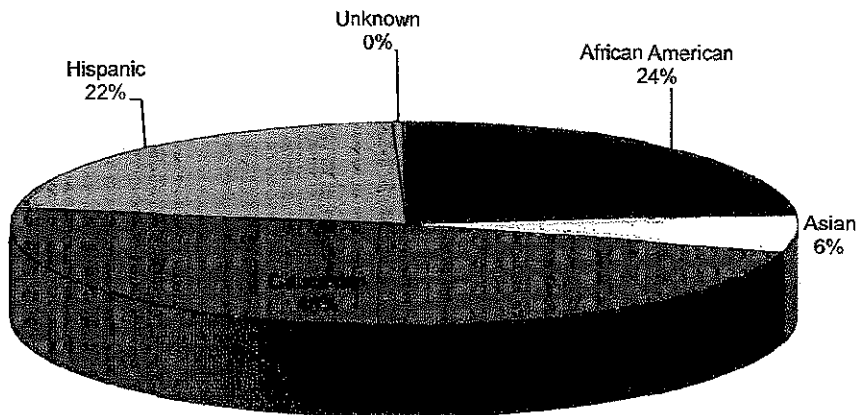
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# The Council of the City of New York

## Workforce by Ethnicity

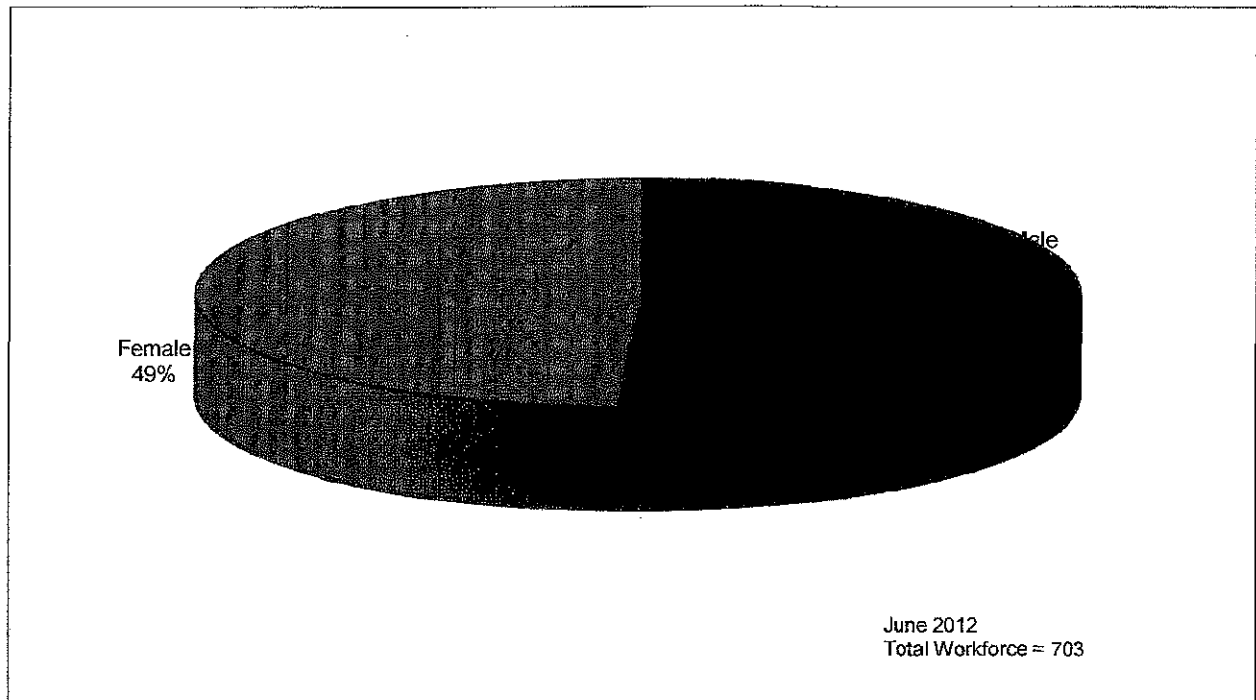
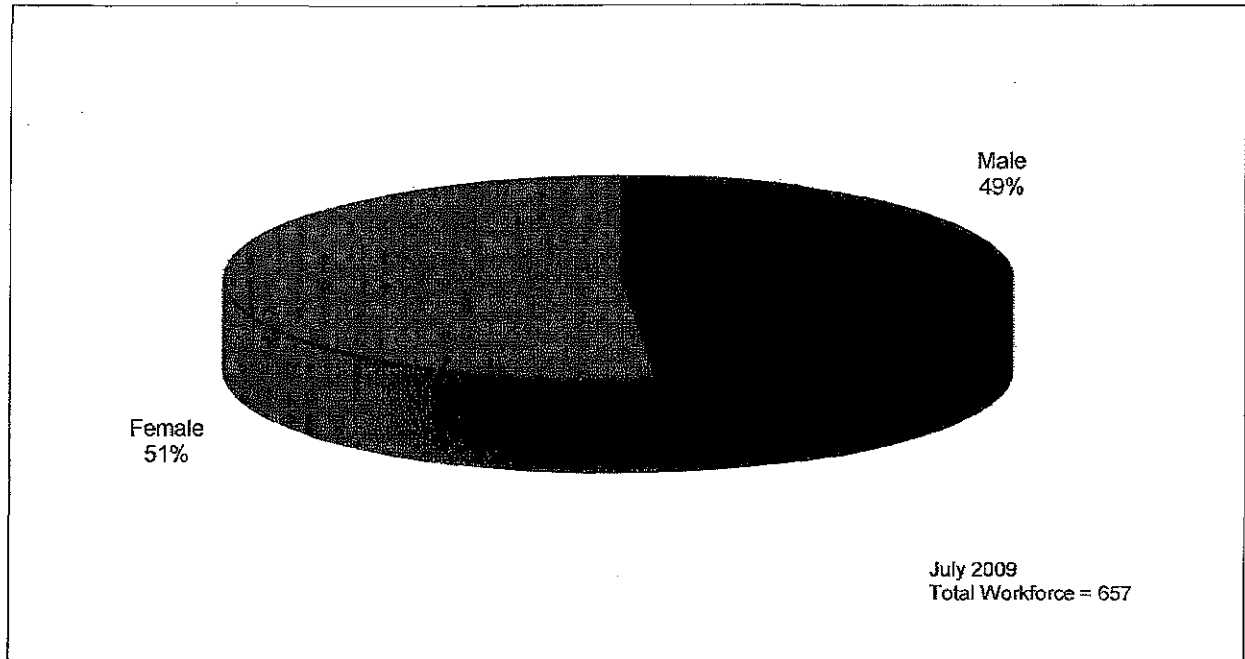


July 2009  
Total Workforce = 657



June 2012  
Total Workforce = 703

# The Council of the City of New York Workforce by Gender





# **Appendix 3**

## **New York City Council (NYCC)**

### **Hires, and Separations By Ethnicity and Gender**

# New York City Council

As of 2/28/2013

## Summary of Separations

Starting Date: 7/1/2009

Ending Date: 6/30/2012

Total			Male							Female						
Total	Male	Female	White	Amer. Ind.	Hispanic	Black	Asian	Multi-Race	Other	White	Amer. Ind.	Hispanic	Black	Asian	Multi-Race	Other
652	324	328	160	0	71	76	15	0	2	138	2	63	98	22	0	5

Each person is counted only once.

# New York City Council

As of 3/1/2013

## AAP Hire Summary

Starting Date: 7/1/2009

Ending Date: 6/30/2012

EEO Cat	Total		Male							Female						
	Total	Male	Female	White	Amer. Ind.	Hispanic	Black	Asian	Multi-Race	Other	White	Amer. Ind.	Hispanic	Black	Asian	Multi-Race

### Grand Total

627	326	301	161	1	67	75	18	1	4	113	2	68	90	27	0	1
-----	-----	-----	-----	---	----	----	----	---	---	-----	---	----	----	----	---	---

Each person is counted only once.

## The Council of the City of New York

The following table indicates personnel activity during the audit period, July 1, 2009 to June 30, 2012

### Hires by Gender and Ethnicity

Total Hires: 628

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Multi Race	Native American	Unknown	Total
327	301	628	274	165	135	45	1	3	5	628

### Separations by Gender and Ethnicity

Total Separations: 652

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Unknown	Total
324	328	652	298	174	134	37	2	7	652


Source: Audit data supplied by the NYCC

## **Appendix - 4**



### **New York City Council**

#### **Employee Survey**


## 1. City of New York

	Response Percent	Response Count
Agency Name: 	100.0%	221
answered question		221
skipped question		0

## 2. Do you know who your agency's EEO Officer is?

	Response Percent	Response Count
Yes 	75.0%	165
No 	25.0%	55
answered question		220
skipped question		1

## 3. Is the EEO Policy posted on your agency's bulletin boards or kept in an area otherwise accessible to employees?

	Response Percent	Response Count
Yes 	93.2%	205
No 	6.8%	15
answered question		220
skipped question		1

**4. Were you given a copy of the EEO Policy Handbook - About EEO: What You May Not Know?**

	Response Percent	Response Count
Yes	75.9%	167
No	24.1%	53
answered question		220
skipped question		1

**5. How often has your manager or supervisor reaffirmed the agency's commitment to the principle of EEO during staff meetings within the past year?**

	Response Percent	Response Count
Two or more times	45.4%	98
One time	28.7%	62
At no time	25.9%	56
answered question		216
skipped question		5

**6. How often has your manager or supervisor discussed employees' right to file a discrimination complaint with the agency's EEO Officer during staff meetings within the past year?**

	Response Percent	Response Count
Two or more times	38.0%	81
One time	31.9%	68
At no time	30.0%	64
answered question		213
skipped question		8

**7. When hired, were you advised of the EEO policies, and of your rights and responsibilities under such policies?**




	Response Percent	Response Count
Yes	71.8%	153
No	5.6%	12
Do Not Remember	22.5%	48
answered question		213
skipped question		8

**8. Do you know how to file an EEO complaint?**




	Response Percent	Response Count
Yes	78.4%	167
No	21.6%	46
answered question		213
skipped question		8





**9. If you had an EEO complaint, would you bring it to your agency's EEO Office?**

	Response Percent	Response Count
Yes 	76.5%	163
No 	6.6%	14
Undecided 	16.9%	36
answered question		213
skipped question		8




**10. Would you prefer to file an EEO complaint with an office outside your agency rather than your agency's EEO Office?**

	Response Percent	Response Count
Yes 	21.1%	45
No 	39.9%	85
Undecided 	39.0%	83
answered question		213
skipped question		8




**11. During the past 3 years, did you file a complaint with your agency's EEO Office?**

	Response Percent	Response Count
Yes 	2.3%	5
No 	97.7%	208
answered question		213
skipped question		8





## 12. Was your manager or supervisor supportive of your right to file a complaint?

	Response Percent	Response Count
Yes 	20.0%	1
No 	0.0%	0
Not Applicable 	80.0%	4
<b>answered question</b>		<b>5</b>
<b>skipped question</b>		<b>216</b>




## 13. During the past 3 years, did you receive EEO training?

	Response Percent	Response Count
Yes 	82.2%	175
No 	5.6%	12
Employed for less than 12 months 	12.2%	26
<b>answered question</b>		<b>213</b>
<b>skipped question</b>		<b>8</b>




## 14. How informative was this training?

	Response Percent	Response Count
Very informative 	68.0%	119
Somewhat informative 	28.6%	50
Not really informative 	2.3%	4
Not Applicable 	1.1%	2
<b>answered question</b>		<b>175</b>
<b>skipped question</b>		<b>46</b>

**15. Does your agency use training and development programs in order to improve job performance and/or career opportunities?**

	Response Percent	Response Count
Yes 	56.6%	120
No 	23.1%	49
I do not know 	20.3%	43
<b>answered question</b>		<b>212</b>
<b>skipped question</b>		<b>9</b>

**16. Were vacant positions advertised on bulletin boards or other areas accessible to employees in a timely manner?**

	Response Percent	Response Count
Yes 	17.5%	37
No 	41.0%	87
Do not remember 	41.5%	88
<b>answered question</b>		<b>212</b>
<b>skipped question</b>		<b>9</b>

**17. The Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies require that employees (managerial and non-managerial) receive annual performance evaluations. Have you received annual performance evaluations within the past 3 years?**

	Response Percent	Response Count
Yes	28.9%	61
No	47.9%	101
Employed for less than 12 months	23.2%	49
answered question		211
skipped question		10

**18. Did your evaluation contain recommendations for improving your job performance?**

	Response Percent	Response Count
Yes	76.7%	46
No	23.3%	14
answered question		60
skipped question		161

**19. Did your evaluation contain recommendations for career advancement with your agency?**

	Response Percent	Response Count
Yes	31.7%	19
No	68.3%	41
answered question		60
skipped question		161



**20. The Career Counselor is a trained professional (often the Human Resources Director) familiar with civil service and provisional jobs who provides career counseling to employees who request such guidance. Do you know who your agency's Career Counselor is?**

	Response Percent	Response Count
Yes <input type="checkbox"/>	17.1%	36
No <input type="checkbox"/>	57.6%	121
Not Applicable <input type="checkbox"/>	25.2%	53
<b>answered question</b>		<b>210</b>
<b>skipped question</b>		<b>11</b>



**21. The Disability Rights Coordinator is responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies pertaining to persons with disabilities. Do you know who your agency's Disability Rights Coordinator is?**

	Response Percent	Response Count
Yes <input type="checkbox"/>	43.1%	90
No <input type="checkbox"/>	56.9%	119
<b>answered question</b>		<b>209</b>
<b>skipped question</b>		<b>12</b>



**22. Agencies are required to take appropriate action to reasonably accommodate qualified employees and applicants with disabilities, and those who are victims of domestic violence, sex offenses, or stalking, to enable to them to perform their jobs or enjoy equal benefits and privileges of employment. Agencies are also required to provide reasonable accommodations for the religious observances, beliefs and practices of an employee or applicant. During the past 3 years, did you ask for a reasonable accommodation due to any of the above?**

	Response Percent	Response Count
Yes 	9.1%	19
No 	90.9%	190
answered question		209
skipped question		12



**23. Was your accommodation granted?**

	Response Percent	Response Count
Yes 	84.2%	16
No 	15.8%	3
answered question		19
skipped question		202







**24. Equal Employment Opportunity (EEO) guarantees the right of all persons to be accorded full and equal consideration on the basis of merit, regardless of protected group status. Do you understand this principle?**

		Response Percent	Response Count
Yes		98.1%	205
No		1.9%	4
answered question			209
skipped question			12



**25. From your experience or observations, does your agency practice equal employment opportunity (i.e. ensures fairness in all aspects of employment including hiring, selection, promotions, etc.)?**

		Response Percent	Response Count
Yes		84.2%	176
No		15.8%	33
answered question			209
skipped question			12

## 26. Race/Ethnicity

	Response Percent	Response Count
Asian or Pacific Islander 	1.6%	3
American Indian or Alaska Native 	0.5%	1
Black (not of Hispanic origin) 	19.0%	36
Hispanic 	21.2%	40
White (not of Hispanic origin) 	49.2%	93
Other 	8.5%	16
answered question		189
skipped question		32

## 27. Gender

	Response Percent	Response Count
Male 	42.6%	83
Female 	57.4%	112
answered question		195
skipped question		26



# **Appendix 5**

## **New York City Council (NYCC)**

### **DIRF Attachment 1 – Internal Discrimination Complaints**

Attachment 1 - Summary of Internal Discrimination Complaints

Agency: The Council of the City of New York

For the period in review, please indicate the following:

1. Total # of INTERNAL complaints filed 7
2. # of investigation reports completed by EEO Officer 0
3. # of complaints that received a PROBABLE CAUSE determination 4
4. # of complaints that received a NO PROBABLE CAUSE determination 1
5. # of complaints that were also filed with an external agency 0

Type/Basis of Complaint	# of this complaint type	Date(s)
<u>Gender discrimination</u>	<u>1</u>	<u>January 2012</u>
<u>Retaliation</u>	<u>1</u>	<u>January 2012</u>
<u>Race Discrimination</u>	<u>1</u>	<u>May 2010</u>
<u>Religious Harassment</u>	<u>1</u>	<u>April 2012</u>
<u>Sexual Harassment</u>	<u>4</u>	<u>June 2010; January 2012;</u> <u>April 2012; May 2012</u>
<u>Racial Harassment</u>	<u>3</u>	<u>August 2010; April 2012;</u> <u>May 2012</u>
<u>Failure to Accommodate</u>	<u>1</u>	<u>January 2012</u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>                    </u>	<u>                    </u>	<u>                    </u>

☐ No internal discrimination complaints were filed during the audit period. \_\_\_\_\_ (Initial)

## **Appendix 6**

### **New York City Council (NYCC)**

#### **DIRF Attachment 5 – External Discrimination Complaints**

# Appendix - 6

## The Council of the City of New York

### External Complaints\*

Total number of external complaints filed: 1

Name of Outside Agency	Year	Nature of complaint	Status of complaint (incl. finding by outside agency)
Eastern District of New York	2010	Alleged discrimination on the basis of disability; failure to accommodate such disability; hostile work environment on the basis of disability; retaliation and constructive discharge	The matter is pending

\*Filed During the Audit Period

## **Appendix 7**

### **New York City Council (NYCC)**

**New York City Department of Personnel Citywide Equal Employment  
Opportunity Database System**

RUN DATE: 02/14/11  
 RUN TIME: 8:33:50  
 FY2010 Q2

NEW YORK CITY DEPARTMENT OF PERSONNEL  
 C R E D S S Y S T E M  
 WORK FORCE COMPARED WITH INTERNAL & EXTERNAL POOLS  
 AT THE AGENCY/JOBGROUP LEVEL

PAGE: 289  
 PROGRAM: BBPPP961  
 EXTRACT DATE: 12/31/09

AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 001 ADMINISTRATORS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	27	25	52	.5872	30.53	-3.53	-1.00	0.160	
ETH	BLACK	12	40	52	.1688	8.78	3.22	1.19	0.116	
ETH	HISPANIC	10	42	52	.1518	7.89	2.11	0.81	0.208	
ETH	ASIAN / PAC ISL	1	51	52	.0716	3.72	-2.72	-1.46	0.071	U-80%RUL
ETH	NATIVE AMERICAN	1	51	52	.0098	0.51	0.49	-0.69	0.245	
ETH	ETH UNKNOWN	1	51	52	.0203	1.06	-0.06	-0.05	0.478	
GEN	MALE	34	18	52	.6301	32.77	1.23	0.35	0.361	
GEN	FEMALE	18	34	52	.3766	19.58	-1.58	-0.45	0.325	
GEN	GENDER UNKNOWN	0	52	52	.0092	0.48	-0.48	-0.69	0.244	N-05%RUL

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NEW YORK CITY DEPARTMENT OF PERSONNEL  
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 EXTRACT DATE: 12/31/09

AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 002 MANAGERS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	62	36	98	.5090	49.88	12.12	2.45	<.01	O
ETH	BLACK	15	83	98	.2091	20.49	-5.49	-1.36	0.086	U-80%RUL
ETH	HISPANIC	8	90	98	.1364	13.37	-5.37	-1.58	0.057	U-80%RUL
ETH	ASIAN / PAC ISL	3	95	98	.0843	8.26	-5.26	-1.91	0.028	U-80%RUL
ETH	NATIVE AMERICAN	0	98	98	.0040	0.39	-0.39	-0.63	0.265	N-05%RUL
ETH	ETH UNKNOWN	10	88	98	.0588	5.76	4.24	1.82	0.034	
GEN	MALE	53	45	98	.5422	53.14	-0.14	-0.03	0.489	
GEN	FEMALE	45	53	98	.4247	41.62	3.38	0.69	0.245	
GEN	GENDER UNKNOWN	0	98	98	.0331	3.24	-3.24	-1.83	0.034	N-05%RUL

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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 003 MNGMNT SPECS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	13	16	29	.4114	11.93	1.07	0.40	0.343	
ETH	BLACK	5	24	29	.3111	9.02	-4.02	-1.61	0.053	U-80%RUL
ETH	HISPANIC	3	26	29	.1300	3.77	-0.77	-0.43	0.335	N-05%RUL
ETH	ASIAN / PAC ISL	1	28	29	.1226	3.56	-2.56	-1.45	0.074	U-80%RUL
ETH	NATIVE AMERICAN	0	29	29	.0031	0.09	-0.09	-0.30	0.382	N-05%RUL
ETH	ETH UNKNOWN	7	22	29	.0278	0.81	6.19	7.00	<.01	O
GEN	MALE	15	14	29	.5748	16.67	-1.67	-0.63	0.265	
GEN	FEMALE	14	15	29	.4134	11.99	2.01	0.76	0.224	
GEN	GENDER UNKNOWN	0	29	29	.0159	0.46	-0.46	-0.68	0.247	N-05%RUL



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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 004 SCIENCE PROFNS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	1	6	7	.4614	3.23	-2.23	-1.69	0.045	N - N<=8
ETH	BLACK	1	6	7	.1807	1.26	-0.26	-0.26	0.397	N - N<=8
ETH	HISPANIC	1	6	7	.1023	0.72	0.28	0.35	0.362	N - N<=8
ETH	ASIAN / PAC ISL	4	3	7	.2134	1.49	2.51	2.31	0.010	N - N<=8
ETH	NATIVE AMERICAN	0	7	7	.0054	0.04	-0.04	-0.19	0.423	N - N<=8
ETH	ETH UNKNOWN	0	7	7	.0402	0.28	-0.28	-0.54	0.294	N - N<=8
GEN	MALE	7	0	7	.6615	4.63	2.37	1.89	0.029	N - N<=8
GEN	FEMALE	0	7	7	.3153	2.21	-2.21	-1.80	0.036	N - N<=8
GEN	GENDER UNKNOWN	0	7	7	.0254	0.18	-0.18	-0.43	0.335	N - N<=8

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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 008 LAWYERS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	9	11	20	.6496	12.99	-3.99	-1.87	0.031	U-80%RUL
ETH	BLACK	5	15	20	.1697	3.39	1.61	0.96	0.169	
ETH	HISPANIC	3	17	20	.0982	1.96	1.04	0.78	0.218	
ETH	ASIAN / PAC ISL	0	20	20	.0647	1.29	-1.29	-1.18	0.120	U-80%RUL
ETH	NATIVE AMERICAN	0	20	20	.0026	0.05	-0.05	-0.23	0.410	N-05%RUL
ETH	ETH UNKNOWN	3	17	20	.0173	0.35	2.65	4.55	<.01	O
GEN	MALE	8	12	20	.4924	9.85	-1.85	-0.83	0.204	
GEN	FEMALE	12	8	20	.5061	10.12	1.88	0.84	0.200	
GEN	GENDER UNKNOWN	0	20	20	.0014	0.03	-0.03	-0.17	0.434	N-05%RUL

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NEW YORK CITY DEPARTMENT OF PERSONNEL  
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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 010 TECHNICIANS

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	31	51	82	.3531	28.95	2.05	0.47	0.318	
ETH	BLACK	22	60	82	.3323	27.25	-5.25	-1.23	0.109	
ETH	HISPANIC	17	65	82	.1959	16.06	0.94	0.26	0.397	
ETH	ASIAN / PAC ISL	1	81	82	.0889	7.29	-6.29	-2.44	<.01	U
ETH	NATIVE AMERICAN	0	82	82	.0034	0.28	-0.28	-0.53	0.298	N-05%RUL
ETH	ETH UNKNOWN	11	71	82	.0261	2.14	8.86	6.14	<.01	O
GEN	MALE	39	43	82	.5959	48.86	-9.86	-2.22	0.013	U
GEN	FEMALE	43	39	82	.3932	32.24	10.76	2.43	<.01	O
GEN	GENDER UNKNOWN	0	82	82	.0102	0.84	-0.84	-0.92	0.179	N-05%RUL

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NEW YORK CITY DEPARTMENT OF PERSONNEL  
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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 013 CLERICAL

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	2	7	9	.2220	2.00	0.00	0.00	0.499	
ETH	BLACK	2	7	9	.4973	4.48	-2.48	-1.65	0.049	U-80%RUL
ETH	HISPANIC	4	5	9	.1572	1.41	2.59	2.37	<.01	O
ETH	ASIAN / PAC ISL	0	9	9	.0692	0.62	-0.62	-0.82	0.207	U-80%RUL
ETH	NATIVE AMERICAN	0	9	9	.0044	0.04	-0.04	-0.20	0.421	N-05%RUL
ETH	ETH UNKNOWN	1	8	9	.0493	0.44	0.56	0.86	0.196	
GEN	MALE	5	4	9	.2957	2.66	2.34	1.71	0.044	
GEN	FEMALE	4	5	9	.6709	6.04	-2.04	-1.45	0.074	U-80%RUL
GEN	GENDER UNKNOWN	0	9	9	.0328	0.30	-0.30	-0.55	0.290	N-05%RUL

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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 018 POLICE

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	3	6	9	.4203	3.78	-0.78	-0.53	0.299	U-80%RUL
ETH	BLACK	1	8	9	.3058	2.75	-1.75	-1.27	0.102	U-80%RUL
ETH	HISPANIC	5	4	9	.2169	1.95	3.05	2.47	<.01	O
ETH	ASIAN / PAC ISL	0	9	9	.0440	0.40	-0.40	-0.64	0.260	N-05%RUL
ETH	NATIVE AMERICAN	0	9	9	.0041	0.04	-0.04	-0.19	0.424	N-05%RUL
ETH	ETH UNKNOWN	0	9	9	.0086	0.08	-0.08	-0.28	0.390	N-05%RUL
GEN	MALE	7	2	9	.7371	6.63	0.37	0.28	0.391	
GEN	FEMALE	2	7	9	.2568	2.31	-0.31	-0.24	0.406	
GEN	GENDER UNKNOWN	0	9	9	.0059	0.05	-0.05	-0.23	0.409	N-05%RUL

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AGENCY: 102 CITY COUNCIL  
 JOB GROUP: 031 PARA PROFESSION

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: 0.05

USING BINOMIAL TEST

EEO VAR	EEO VAL	FOCAL GROUP	OTHER THAN FOCAL GROUP	TOTAL	AVAIL %	EXPECTED #	DIFFERENCE	Z-SCORE	PROBABILITY	IMBAL
ETH	WHITE	136	213	349	.3568	124.52	11.48	1.28	0.100	
ETH	BLACK	80	269	349	.2847	99.36	-19.4	-2.30	0.011	U
ETH	HISPANIC	69	280	349	.2271	79.26	-10.3	-1.31	0.095	
ETH	ASIAN / PAC ISL	14	335	349	.0826	28.83	-14.8	-2.88	<.01	N-05%RUL
ETH	NATIVE AMERICAN	0	349	349	.0043	1.50	-1.50	-1.23	0.110	N-05%RUL
ETH	ETH UNKNOWN	50	299	349	.0404	14.10	35.90	9.76	<.01	O
GEN	MALE	144	205	349	.3911	136.49	7.51	0.82	0.205	
GEN	FEMALE	205	144	349	.6008	209.68	-4.68	-0.51	0.305	
GEN	GENDER UNKNOWN	0	349	349	.0043	1.50	-1.50	-1.23	0.110	N-05%RUL

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NEW YORK CITY DEPARTMENT OF PERSONNEL  
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AGENCY: 102 CITY COUNCIL  
 EEO VARIABLE: ETH ETHNICITY

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	WHITE OBSRV EXPCT I	BLACK OBSRV EXPCT I	HISPANIC OBSRV EXPCT I	ASIAN / OBSRV EXPCT I	NATIVE A OBSRV EXPCT I	ETH UNKN OBSRV EXPCT I
001 ADMINISTRATORS	52	27 31	12 9	10 8	1 4 U	1 1	1 1
002 MANAGERS	98	62 50 O	15 20 U	8 13 U	3 8 U	0 0 N	10 6
003 MNGMNT SPECS	29	13 12	5 9 U	3 4 N	1 4 U	0 0 N	7 1 O
004 SCIENCE PROFNS	7	1 3 N	1 1 N	1 1 N	4 1 N	0 0 N	0 0 N
008 LAWYERS	20	9 13 U	5 3	3 2	0 1 U	0 0 N	3 0 O
010 TECHNICIANS	82	31 29	22 27	17 16	1 7 U	0 0 N	11 2 O
013 CLERICAL	9	2 2	2 4 U	4 1 O	0 1 U	0 0 N	1 0
018 POLICE	9	3 4 U	1 3 U	5 2 O	0 0 N	0 0 N	0 0 N
031 PARA PROFESSION	349	136 125	80 99 U	69 79	14 29 N	0 2 N	50 14 O

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AGENCY: 102 CITY COUNCIL  
 EEO VARIABLE: GEN GENDER

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	MALE OBSRV EXPCT I	FEMALE OBSRV EXPCT I	GENDER U OBSRV EXPCT I
001 ADMINISTRATORS	52	34 33	18 20	0 0 N
002 MANAGERS	98	53 53	45 42	0 3 N
003 MNGMNT SPECS	29	15 17	14 12	0 0 N
004 SCIENCE PROFNS	7	7 5 N	0 2 N	0 0 N
008 LAWYERS	20	8 10	12 10	0 0 N
010 TECHNICIANS	82	39 49 U	43 32 O	0 1 N
013 CLERICAL	9	5 3	4 6 U	0 0 N
018 POLICE	9	7 7	2 2	0 0 N
031 PARA PROFESSION	349	144 136	205 210	0 2 N





THE COUNCIL  
OF  
THE CITY OF NEW YORK  
OFFICE OF THE GENERAL COUNSEL  
250 BROADWAY, 15TH FLOOR  
NEW YORK, N.Y. 10007

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**ELIZABETH R. FINE**  
GENERAL COUNSEL

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8 November 2013

Charise L. Hendricks  
Executive Director  
New York City Equal Employment Practices Commission  
253 Broadway  
Suite 602  
New York, NY 10007

Re: Preliminary Determination: Audit and Analysis of the New York City Council's  
Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012.

Dear Ms. Hendricks:

This letter will serve as the Council of the City of New York's ("Council") response to the Equal Employment Practices Commission's ("Commission") Preliminary Determination: Audit and Analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012 ("Report").

Thank you for your continued work with the Council during this review. The Council takes equal employment practices very seriously, and under the leadership of Speaker Christine Quinn has made it the highest of priorities to develop policies and practices to create a workplace that is free of discrimination, workplace harassment and other barriers to access that employees may face. Accordingly, the Council is committed to working with the Commission to incorporate the proposed corrective actions that are applicable to the Council. As explained further below the Council has already incorporated a number of the Commission's recommendations into its employment practices.

**I. Overview**

As the Report notes, the Council is in compliance with many aspects of the Commission's standards, including in the issuance and distribution of its EEO policies and the mandatory training program the Council has instituted. However, I would like to reiterate that the Council is distinct in key respects from city agencies that the Commission regularly audits. As a result, a number of the standards that the Commission

uniformly applies do not serve as appropriate measures of the Council's EEO policies and practices. First, as the legislative branch of government, the Council is not subject to certain provisions of state or local law, including rules promulgated by the Department of Citywide Administrative Services ("DCAS"). Additionally, the Council is comprised of 51 independently elected officials, and they need a high degree of discretion in order to be effective legislators and advocates for their communities. Notwithstanding these differences, the Council has taken steps to ensure that all policies and procedures comply with the law. Finally, Speaker Quinn has directed the Office of the General Counsel ("OGC") to supervise all equal employment practices to ensure that they comply with federal, state and local law. As a result, many documents that reflect certain practices and procedures have been withheld because they are privileged as attorney-client communications or attorney work product. The Council has nonetheless produced, including attachments to this Response, documents evidencing compliance with EEO laws whenever possible. These distinctions will be set forth in more detail below—as they relate to specific proposed corrective action—but please note these overarching concerns as the framework for our response to the Commission's Report.

## **II. Council Response to Specific Preliminary Determinations**

The Council has carefully reviewed each of the determinations and proposed corrective actions made by the Commission. This response does not address the many areas for which the Commission found Council policies and practices to be in agreement with equal employment practice standards. It focuses, instead, on those areas where the Commission found the Council's practices out of compliance, and where it recommended corrective actions. With respect to the specific recommendations in the report, as explained further below, this response explains that: (i) the Council has already implemented a number of corrective actions based on the Report; (ii) the Council has developed equal employment practices that ensure equal employment opportunities, but has done so with policies different from those recommended by the Commission; and (iii) certain recommendations made by the Commission simply do not apply to the Council and are otherwise inapposite, and the Council has fulfilled its legal obligations, notwithstanding.

### **1. Complaint and Investigation Procedures:**

The Commission determined that the Council is not in compliance with the standards for complaint and investigation procedures for discrimination and workplace harassment matters. In particular, the Commission determined that the Council did not provide copies of complaint files, including a form for discrimination complaints or other documentation summarizing the complaint with sufficient specificity, a confidential report summarizing the investigation of the complaint to the Agency Head, and documents containing the outcome and corrective action taken as a result of the determination. Corrective Actions #1, 2 and 3.

*Council Response:*

The Council has a comprehensive process for investigating complaints of violations of the Council's Policy. Employees are encouraged to complain about discrimination and workplace harassment before it becomes severe or pervasive; once complaints are received they are promptly and thoroughly investigated; and after determinations about the alleged conduct are made, employees who engaged in behavior that violates the Council's policy are subject to disciplinary action up to and including termination. Attached are disciplinary memoranda that were provided to employees whose conduct was found to violate the Council's Anti-Discrimination and Harassment Policy ("Policy") during the relevant period. These disciplinary memoranda contain information on the nature of the complaint, the finding of the Equal Employment Committee ("EEC") and the corrective action taken.

Complaints: Although employees may make complaints of discrimination or harassment in writing, pursuant to the recommendations of the OGC, the Council does not use "complaint forms". This is a widely accepted employment law practice that the Council leadership made in consultation with the OGC and with support from the New York City Law Department. Employees are trained annually on how to report complaints of discrimination or harassment. Specifically, they are instructed that they may complain to supervisors (any supervisor at the Council, including but not limited to their supervisor), the Council's EEO Officer, any member of the EEC or the Council's Ethics and Employment Counsel. A poster<sup>1</sup> was generated to identify the persons to whom employees can complain about discrimination and harassment. Copies of the poster are hung in prominent places in City Hall and in various prominent places on every floor of 250 Broadway. The poster is also given to all Council members to hang in their district and legislative offices. Similarly, supervisors, the EEO Officer and members of the EEC are all trained annually by the Counsel's Ethics and Employment Counsel on how to receive complaints of discrimination and harassment. The Council's policy is that supervisors and EEC members who receive complaints are not to put the complaints in writing, but instead must notify either the EEO Officer or the Ethics and Employment Counsel immediately. This triggers the start of the investigation process, which is explained in further detail below. The Council has a recognizable interest in ensuring that the record of any complaint and investigation is as accurate and complete as possible so that it can be used in any future litigation to demonstrate that the Council has met its legal obligations. The Council has determined that this will be best achieved by eliminating any potential editorializing or misstatements and recording and relying solely on the information the complainant provides to the EEC in his or her interview.

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<sup>1</sup> A copy of the poster was included in the Council's 12 April 2013 submission to the Commission's Document and Information Request Forms and is attached hereto. See, NYCC00000069.

Investigations: When complaints are made, the Council's process is to have members of the EEC and the Ethics and Employment Counsel meet with the complainant, the employee alleged to have engaged in conduct that may violate the Council's Policy and any relevant witnesses. After such meetings, the EEC makes a determination about whether the conduct that was complained about occurred and, if it did, whether it violated the Council's Policy. The EEC's findings are communicated to the speaker and any relevant Council member through a confidential report. The results of an investigation are communicated to the complainant and the employee accused of engaging in conduct that may violate the Council's Policy by the Council's EEO Officer and the Ethics and Employment Counsel.

Corrective Action: Any employee who is determined to have violated the Council's Policy is given a disciplinary memo in his or her meeting with the EEO Officer and Ethics and Employment Counsel. The disciplinary memoranda as well as the confidential reports are kept in files maintained by the EEO Officer and the Ethics and Employment Counsel. The disciplinary memoranda are attached. However, because the confidential reports are generated through the OGC, they are privileged as attorney client communication. Accordingly, the Council has withheld those documents from the productions it has made to the Commission.

The Council has devoted extensive time and attention to developing a fair, responsive and comprehensive process for addressing EEO complaints. We believe that these complaint and investigation procedures comply with the Commission's standards and eliminate the need for the recommended corrective actions in the Report. We trust that based on this information, and the duly submitted documentation, that the Commission will find that the Council is in compliance with the standards for this subject area.

## 2. Selection and Recruitment System:

The Commission determined that the Council is not in compliance with Commission selection and recruitment standards. In particular, the Commission found that the Council (i) does not assess recruitment efforts to determine whether such efforts adversely impact any particular group; (ii) does not review statistical information of EEO complaints and other practices to determine if there are barriers to equal opportunity; (iii) does not assess the manner in which candidates are selected for employment to determine any adverse impact among particular groups; (iv) has not identified ways to recruit women and candidates of color to the extent that those groups are underrepresented; (v) has not demonstrated that HR professionals, managers, supervisors and other personnel are trained in EEO and interviewing, selection and hiring skills; (vi) does not promote awareness of opportunities for promotion and transfer; and (vii) does not use and maintain an applicant/candidate log.

*Council Response:*

First, the Commission's finding and recommendations on the Council's compliance with selections and recruitment standards are not legally applicable to or workable for the Council. All Council positions have been categorized as unclassified by the New York State Civil Service Commission, which means that Council employees are not subject to the state and city civil service laws. Both DCAS and the Law Department have affirmed the State Civil Service Commission's determination that Council employees are not subject to the state civil service law and, accordingly, the city civil service law. Further, to the extent that DCAS rules "apply to all offices and positions in the classified service of the city..."<sup>2</sup> those rules do not apply to the Council and they have not been incorporated into the Council's employment practices. One significant import of this is that all Council employees are employed at will, which means their employment with the Council may be terminated at any time. Another is that the Council also does not have and is not required by law to have an annual performance evaluation process.<sup>3</sup> The Council has worked to develop employment and hiring policies and procedures that comply with relevant laws and reflect our steadfast commitment to equal employment opportunities. These policies do not always mirror city-wide practices, but we are confident that they comply with all relevant laws and further the Council's commitment to ensuring equal employment opportunities.

Similarly, as an administrative matter, the Council does not and is not required to use the Citywide Equal Employment Opportunity Database System ("CEEDS"). As the Commission is aware, there is information about the Council available in CEEDS that is generated whenever a new employee is added to the payroll system, but that information does not accurately reflect the different jobs, titles and responsibilities employees have at the Council. For example, many employees with various titles and roles at the Council are listed simply as "Legislative Assistant" in the CEEDS system, but that does not reflect the jobs they perform at the Council. Therefore, to the extent that the Commission has proposed corrective action based on the information available in CEEDS, the findings are unreliable and the Council requests that those proposals be withdrawn. See, Corrective Action #7.

Finally, the Council is a uniquely political institution in city government. As indicated in our earlier correspondence, the Council is comprised of 51 separate, independently elected officials and their aides, referred to as councilmanic aides. Council members typically employ three (3) to eight (8) aides at any given time. As independently elected officials, Council members have and need discretion in their hiring practices, subject to all relevant laws. Councilmanic aides serve as confidential assistants to Council members. They are liaisons to constituents and other government agencies, advocates for

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<sup>2</sup> 55 Rul. City of N Y §V

<sup>3</sup> See, NYC Charter §816(8), providing for "performance evaluations for members of the [civil] service...."



the Council member's district and trusted advisors to the Council member on all aspects of the member's official duties, including legislative proposals, budget priorities and community issues. These positions are often filled with persons who have long-standing relationships with Council members, have deep connections to the Council member's district and can otherwise be trusted by the member to advise and assist him or her in the performance of the member's duties. These positions just practically are not filled through career fairs or postings on job search websites, and Council members may not always interview multiple candidates to fill them. Similarly, the make-up of district offices reflects the make-up and needs of the Council district. Whether it is having housing specialists to address concerns about development in a neighborhood or bilingual employees to assist constituents whose first language is not English, members need the flexibility to staff their offices in the way that best suits their district and constituents. The Council's hiring policies reflect this needed latitude.

The Council also has a central staff, which performs a similar confidential adviser role to the speaker and to Council members. The speaker's office relies on central staff employees to advise on legislative, budget, land use and policy proposals and to advance the interests of the Council as an institution. Many of the central staff employees support the legislative committee work of the Council. Members work with these employees in addition to their own staffs to develop and advance the agenda for their legislative committees. To be effective in these roles these employees, much like councilmanic aides, must have the confidence of the members they advise, including the speaker. Importantly, hiring decisions are often made in consultation with the hiring manager, the speaker's office and supervising Council members. Although the Council does use career fairs, job postings and list-serves for certain central staff positions,<sup>4</sup> other employees are hired through referrals from Council members and other elected officials. This discretion in hiring is essential to the Council's operations, and as explained above, entirely consistent with the Council's legal obligations. Further given the discretion involved in the hiring for any political institution, the Council has relied on advice from the OGC that, as a litigation strategy, it should not track and keep data on the candidates that it interviews and hires.

The Council requests that, based on these reasons, the Commission reconsider Corrective Actions #4, 6, 8, 9, 10, 17 and 18. For the reasons explained above, some of these proposed corrective actions can be applied only to central staff employees and in limited ways. The Administrative Services division of the Council will work with the directors of Council divisions to assess recruitment and hiring procedures and to ensure that when jobs are publicized and candidates are selected, the processes used do not adversely impact any particular group. Additionally, the Council is determining how, when appropriate, it can notify current employees of opportunities for promotion and transfer

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<sup>4</sup> Attached are copies of job postings, which were previously submitted to the Commission, that have been used by the Council during the audit period, information on a career fair the Council has attended and the Council's list of minority and women focused recruitment resources.

within the agency; the Council does not have an intranet nor does it post open positions on its own website. However, we will assess whether there are other ways to promote such information. The Council submits that its current hiring practices while discretionary are not discriminatory, and will work with directors of divisions to continue the Council's commitment to fair and inclusive recruitment and hiring practices.

Corrective Action #5 recommends that the Council review its statistical information (workforce, hires, promotions and separations by race/ethnicity and gender), its annual number of EEO complaints and its employment practices and policies on an annual basis to determine whether there are barriers to equal opportunity within the agency. The Council has reviewed its statistical information and employment practices and policies in the past and will create a formal process for the appropriate Council employees to conduct this review on an annual basis. The Council has had few EEO complaints during and outside the review period, but after each EEO investigation the Ethics and Employment Counsel and the speaker's office determine what, if any, information should be included or emphasized in the annual training program. This is in addition to any updates the Ethics and Employment Counsel makes based on updates to employment laws and the protected categories.

Corrective Action #8 recommends that the Council demonstrate that human resources professionals, managers, supervisors and other personnel involved in the recruitment and hiring processes are trained in EEO and interviewing, selection and hiring skills. The Commission noted in its findings that 53% of respondents to the Supervisor/Manager Survey who interviewed candidates indicated that the Council provided training that outlines illegal or discriminatory questions but that the Council did not provide documentation that it ensured that the relevant personnel were trained in EEO and hiring skills. As the Commission noted in its Report, the Council conducts annual training for supervisors. This training explicitly provides supervisors with information about employment law restrictions that are relevant to the interview process. The Council did not provide written material on this training because it was created by the OGC and is attorney work product. Notwithstanding the fact that the Council does comply with this standard now, the OGC has begun work with the Administrative Services division to create a training program for supervisors that focuses solely on interviewing, selection and hiring skills in response to the Commission's suggestions.

### 3. Reasonable Accommodations:

The Commission determined that the Council is in partial compliance with the standards relating to EEO and reasonable accommodations for employees/applicants for employment with disabilities. In particular, the Commission recommended that the Council: (i) redistribute the identity and responsibilities of the person designated to handle requests for reasonable accommodations; (ii) ensure that information regarding employee rights and obligations and the complaint, investigation and reasonable accommodation process is available "in appropriate alternative formats"; and

(iii) establish guidelines for accessibility for district offices and implement a plan that will ensure all Council members adhere to those guidelines.

*Council Response:*

As the Commission has observed, the Council has developed effective procedures to ensure that employees who are or become disabled can request reasonable accommodations. Corrective Action #11 recommends that the Council redistribute the identity and responsibilities of the person designated to handle requests for reasonable accommodations. Attached is a memorandum that was emailed to all Council employees on 7 November 2013, identifying the Council's EEO Officer as the person responsible for requests for reasonable accommodations. This information is also emphasized in all trainings on the Council's Policy and will be reemphasized in training. The attached memorandum will be circulated periodically, and this plan of action should eliminate the need for Corrective Action #11. Please note that the Council does not use the title "Disability Rights Coordinator," and as raised repeatedly with the Commission prior to the distribution of the employee survey, suspects that questions referring to a "Disability Rights Coordinator" did not yield accurate results.

Further, the Council has never received an accommodation request for alternative formats for our employee rights and obligations or complaint, investigation or reasonable accommodation procedures nor are we aware of any employees who have needed such accommodations. Nevertheless, the Council has confirmed our ability to provide such documentation and is prepared to produce it upon request by an employee. Corrective Action #12.

Finally, the Council has developed guidelines for accessibility for district offices. The Administrative Services division in consultation with the OGC is developing guidance, including the attached draft search form, for members who are leasing new offices to evaluate and record whether the spaces they are reviewing for their district offices are street accessible, have accessible elevators and restroom stalls and otherwise comply with state law provisions. Administrative Services is also in the process of completing a review of the current offices of Council members (those where leases are being renewed) to determine whether they comply with the new guidelines. These guidelines comply with the recommendations in Corrective Action #13.

4. Responsibility for EEO Plan Implementation- EEO Professionals:

The Commission found that the Council is in partial compliance with its standards for EEO plan implementation for EEO professionals, and recommended two corrective actions: (i) that the Council indicate the reporting relationship between the principal EEO Professional and agency in the agency's organizational chart, EEO Policy and Annual EEO Plan; and (ii) maintain appropriate documentation of meeting and other communications between the agency head and the principal EEO professional regarding



decisions that impact the administration and operation of the EEO Program. Corrective Actions #14 and 15.

*Council Response:*

The Council does not understand these proposals to be legal requirements and accordingly they should not be required corrective actions. The Council will make a determination, in the speaker's discretion, whether it will update its organizational chart to demonstrate that the principal EEO professionals, the EEO Officer and the Ethics and Employment Counsel, report to the agency head or a direct report. Please note that the direct report may include the General Counsel because the speaker may continue the practice of centralizing the Council's EEO policies and practices through the OGC. Additionally, given that the Council is a relatively small entity, many meetings between the principal EEO professionals and the agency head are held as needed. Those meetings and communications involve the Council's Ethics and Employment Counsel and result in attorney client communications that are privileged. As a result, the Council is unable to provide documentation of the meetings and other communications between the agency head and principal EEO professionals.

5. Responsibility for EEO Plan Implementation-Supervisors/Managers:

The Commission determined that the Council is not in compliance with its guidelines for EEO plan implementation for supervisors and managers because the Council: (i) did not demonstrate that managers and supervisors were directed to emphasize the agency's commitment to its EEO policies and affirm the right of each employee to file a discrimination complaint; and (ii) the Council did not conduct performance evaluations or include in those performance evaluations a rating for EEO matters. Corrective Actions #16, 17 and 18.

*Council Response:*

The Council routinely distributes its Policy and informs employees that they are encouraged to complain about discrimination and/or harassment before it becomes severe or pervasive. See, Resp. to EEPC Doc. & Info. Req. Forms NYCC00000064-82. This information along with the complaint procedure is also discussed in every training on the Policy, which each employee must complete on an annual basis. The Council will also recommend to the next Speaker that he or she send a memorandum to all central staff supervisors emphasizing the Council's commitment to its equal employment policies and affirming the right of each employee to utilize the Council's complaint procedure. In light of the attached memorandum and the Council's current practices, we request that the Commission amend Corrective Action #16.

Finally, after an assessment of the performance evaluation process and in consultation with the OGC, the Council made the determination not to conduct performance

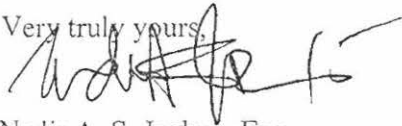
Charise L. Hendricks  
8 November 2013  
Page 10

evaluations. Since Council employees are unclassified under the state and city civil service laws, as explained above, this determination is consistent with applicable laws and mandates relevant to the Council. Accordingly, we request that Corrective Actions #17 and 18 be withdrawn to reflect that this standard of review is not applicable to the Council.

### **III. Conclusion**

Based on the information contained herein, the Council respectfully requests that the Commission revise its Report to (i) reconsider the subject areas and standards that are not applicable to the Council; (ii) amend the appropriate corrective actions to reflect the Council's incorporation of the Commission's recommendations or explanation of the Council's policies and procedures; and (iii) rescind the recommendations that are based on practices and standards that do not legally or practically apply to the Council.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Nadir A. S. Joshua', with a stylized flourish at the end.

Nadir A. S. Joshua, Esq.  
Ethics and Employment Counsel

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**Equal Employment  
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December 19, 2013

Charles Meara  
Chief of Staff  
New York City Council  
City Hall  
New York, New York 10007

RE: Resolution #: 13/32-102 Final Determination Pursuant to  
the Audit and Analysis of the New York City Council's Equal  
Employment Opportunity Program from July 1, 2009 to June 30,  
2012

Dear Mr. Meara:

On behalf of the Equal Employment Practices Commission (EEPC), I want to thank the New York City Council (NYCC) for the November 8, 2013 response to our October 18, 2013 Preliminary Determination regarding the referenced audit and analysis.

We trust that the following will address concerns regarding the applicability of this Commission's audit, analysis and standards to the New York City Council's employment procedures, practices, and programs:

Chapter 36 § 831 of the New York City Charter requires this Commission to *review, evaluate and monitor the employment procedures, practices and programs of any city agency where the majority of the board members of such agency serve by virtue of being city officers*. The New York City Council falls within this definition.

Chapter 36 § 830 also requires this Commission to *review, evaluate and monitor the employment procedures, practices and programs of any city agency and the department of citywide administrative services to maintain an effective affirmative employment program of equal employment opportunity for minority group members and women who are employed by or who seek employment with city agencies*. Employees of, and applicants to, the New York City Council fall within this definition regardless of civil service status.



In addition, Chapter 36 § 831 requires this Commission to *audit and evaluate the employment practices and procedures of each city agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women; to advise city agencies in their efforts to increase employment of minority group members and women who are employed by or who seek employment with city agencies; and to recommend to any one or more particular agencies, procedures, approaches, measures, standards and programs to be utilized by such agencies in their efforts to ensure a fair and effective affirmative employment program.* Consequently, notwithstanding your claim of attorney-client privilege, this Commission's findings and corresponding corrective actions pursuant to the audit and analysis of the New York City Council's employment policies, procedures, practices and programs are applicable.

As indicated in our Preliminary Determination, this Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants.

Our findings and required corrective actions are based on this Commission's audit methodology which includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; responses to the *EEPC Employee Survey* and the *EEPC Supervisor/Manager Survey*; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted, when appropriate.

After reviewing your response, our Final Determination is as follows:

#### Agree

Regarding your responses<sup>2</sup> to the following EEPC's required corrective actions, we Agree based on documentation that is attached to your reply.

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<sup>1</sup> Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Equal Employment Opportunity Commission's Instructions to Federal Agencies for EEO, Management Directive 715; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.

<sup>2</sup> Excerpts are italicized; page numbers are provided.



#### Corrective Action #1

Include in the complaint file a *Discrimination Complaint Form* or a *complaint* that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.

Agency Response: *The Council's policy is that supervisors and EEC members who receive complaints are not to put the complaints in writing, but instead must notify either the EEO Officer or the Ethics and Employment Counsel immediately. This triggers the start of the investigation process... The Council has a recognizable interest in ensuring the record of any complaint and investigation is accurate and complete as possible... The Council has determined that this will best be achieved by eliminating any potential editorializing or misstatements and recording and relying solely on the information the complainant provides to the EEC in his or her interview. (Pg. 3.)*

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #1 has been implemented.

#### Corrective Action #2

Generate a report labeled "Confidential" consisting of *Facts, Analysis, Conclusion, Recommendation, and Agency Head's Review* at the conclusion of each complaint investigation.

Agency Response: *The Council attached to its response disciplinary memoranda that disclosed the nature of the complaint, the finding of the Equal Employment Committee (EEC) and the corrective action taken. The Council indicated when complaints are made, the Council's process is to have members of the EEC and the Ethics and Employment Counsel meet with the complainant, the employee alleged to have engaged in conduct that may violate the Council's Policy and any relevant witnesses. After such meetings, the EEC makes a determination about whether the conduct that was complained about occurred, and if it did, whether it violated the Council's Policy. The EEC's findings are communicated to the speaker and any relevant Council member through a confidential report. The results of an investigation are communicated to the complainant and the employee accused of engaging in conduct that may violate the Council's Policy by the Council's EEO Officer and the Ethics and Employment Counsel... The disciplinary memoranda as well as the confidential reports are kept in files maintained by the EEO Officer and the Ethics and Employment Counsel. (Pg. 4.)*

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #2 has been implemented.



### Corrective Action #3

Ensure that internal discrimination complaint files contain written indication of their outcomes and corrective action(s) taken as a result of the determination made in its complaint investigation.

Agency Response: The Council attached to its response disciplinary memoranda that disclosed corrective actions resulting from its complaint investigations and indicated, *any employee who is determined to have violated the Council's Policy is given a disciplinary memo in his or her meeting with the EEO Officer and Ethics and Employment Counsel. The disciplinary memoranda as well as the confidential reports are kept in files maintained by the EEO Officer and Ethics and Employment Counsel. (Pg. 4.)*

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #3 has been implemented.

### Corrective Action #4

Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where agencies may otherwise use discretion in hiring.

Agency Response: The Council attached to its response a list consisting of local and national publications, contact organizations and websites serving women, minorities, and other protected groups that is used to attract interested candidates when positions become available.

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #4 has been implemented.

### Corrective Action #11

Re-distribute the identity and responsibilities of the Disability Rights Coordinator to ensure that employees are aware of this information.

NOTE: To provide a point of reference for employees, the EEPC's Employee Survey includes an explicit description of the functions of the Disability Rights Coordinator (i.e. handling reasonable accommodations and ensuring compliance for federal, state, and local laws pertaining to persons with disabilities).



Agency Response: The Council attached to its response a memorandum that was distributed to employees on 7 November 2013, identifying the Council's EEO Officer as the person responsible for requests for reasonable accommodations. (Pg. 8.)

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #11 has been implemented.

**Corrective Action #12**

Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

Agency Response: The Council *confirmed [its] ability to provide such documentation and is prepared to produce it upon request by an employee.* (Pg. 8.)

EEPC Response: The EEPC accepts the agency's commitment to provide alternative formats upon request as documentation that corrective action #12 has been implemented.

**Monitoring Required:**

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

**Corrective Action #5**

[Ensure] the principal EEO Professional, HR Professional and General Counsel review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance

Agency Response: *The Administrative Services division of the Council will work with the directors of Council divisions to assess recruitment and hiring procedures and to ensure that when jobs are publicized and candidates are selected, the processes used do not adversely impact any particular group.* (Pg. 6.) *The Council has reviewed its statistical information and employment practices and policies in the past and will create a formal process for the appropriate Council employees to conduct this review on an annual basis.* (Pg. 7.)



**Equal Employment  
Practices Commission**

EEPC Response: The EEPC accepts the agency's response to corrective action #5. Implementation of this corrective action will be monitored.

**Corrective Action #6**

Assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

Agency Response: ... As independently elected officials, Council members have and need discretion in their hiring practices, subject to all relevant laws. Councilmanic aides serve as confidential assistants to Council members. They are liaisons to constituents and other government agencies, advocates for the Council member's district and trusted advisors ... These positions are often filled with persons who have long-standing relationships with Council members, have deep connections to the Council member's district and can otherwise be trusted by the member to advise and assist him or her in the performance of the member's duties. These positions just practically are not filled through career fairs or postings on job search websites, and Council members may not always interview multiple candidates to fill them... members need the flexibility to staff their offices in the way that best suits their district and constituents. The Council's hiring policies reflect this needed latitude... (Pg. 5-6)

The Council also has a Central staff, which performs a similar confidential adviser role to the speaker and to Council members... hiring decisions are often made in consultation with the hiring manager, the speaker's office and supervising Council members. Although the Council does use career fairs, job postings and list-serves for certain central staff positions,<sup>4</sup> other employees are hired through referrals from Council members and other elected officials. This discretion in hiring is essential to the Council's operations, and... entirely consistent with the Council's legal obligations. Further given the discretion involved in the hiring for any political institution, the Council has relied on advice from the OGC that, as a litigation strategy, it should not track and keep data on the candidates that it interviews and hires. (Pg. 6.)

EEPC Response: The agency must establish whether the selection criteria being utilized are job-related and/or discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact. A formal, agency-specific assessment of the manner in which candidates are selected for employment determines whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, and whether the Council must adopt methods which diminish adverse impact. Implementation of this corrective action will be monitored.





#### Corrective Action #7

If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

Agency Response: The Council attached to its response a list of publications and contact organizations serving women, minorities, and other protected groups, which it uses to internships to attract interested candidates.

EEPC Response: The EEPC accepts this list as a response to corrective action #7. Use of this list will be monitored.

#### Corrective Action #8

Demonstrate that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).

Agency Response: *...the Council conducts annual training for supervisors. This training explicitly provides supervisors with information about employment law restrictions that are relevant to the interview process. The Council did not provide written material on this training because it was created by the OGC and is attorney work product. ...the OGC has begun work with the Administrative Services division to create a training program for supervisors that focuses solely on interviewing, selection and hiring skills in response to the Commission's suggestions. (Pg. 7.)*

EEPC Response: The EEPC accepts the agency's response to corrective action #8. Implementation of this corrective action will be monitored. During the monitoring process the agency must provide documentation (i.e. sign-in sheets) that training was conducted.

#### Corrective Action #9

Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

Agency Response: *...the Council is determining how, when appropriate, it can notify current employees of opportunities for promotion and transfer within the agency; the Council does not have an intranet nor does it post open positions on its own website. However, we will assess whether there are other ways to promote such information. The Council ... will work*



*with directors of divisions to continue the Council's commitment to fair and inclusive recruitment and hiring practices. (Pg. 6 and 7)*

EEPC Response: The EEPC accepts the agency's response to corrective action #9. Implementation of this corrective action will be monitored.

#### Corrective Action #10

Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

Agency Response: *...Further given the discretion involved in the hiring for any political institution, the Council [does] not track and keep data on the candidates that it interviews and hires. (Pg. 6.)*

EEPC Response: It is the Commission's position that each agency must have in place adequate and accurate information collection systems integrated into its information management infrastructure that would provide for periodic examinations of the agency's workforce profile. The system should be capable of tracking the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source of each application – which will facilitate monitoring of employment trends, review and analysis of recruitment efforts, and internal evaluation of EEO-related efforts and programs. Implementation of this corrective action will be monitored.

#### Corrective Action #13

Establish guidelines for accessibility of the satellite or district offices and implement a plan that will ensure incumbents and new council members receive and adhere to the Council's guidelines, as well as its reasonable accommodation procedures.

Agency Response: The agency's response included an attachment of its *draft Council Member District Office Lease Questionnaire Form*, and indicated *...the Council has developed guidelines for accessibility for district offices. The Administrative Services division in consultation with the OGC is developing guidance, including the attached draft search form, for members who are leasing new offices to evaluate and record whether the spaces they are reviewing for their district offices are street accessible, have accessible elevators and restroom stalls and otherwise comply with state law provisions.*



*Administrative Services is also in the process of completing a review of the current offices of Council members (those where leases are being renewed) to determine whether they comply with the new guidelines... (Pg. 8.)*

EEPC Response: The EEPC accepts the agency's response to corrective action #13. Implementation of this corrective action will be monitored.

#### **Corrective Action #14**

Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.

Agency Response: *...The Council will make a determination, in the speaker's discretion, whether it will update its organizational chart to demonstrate that the principal EEO professionals, the EEO Officer and the Ethics and Employment Counsel, report to the agency head or a direct report. Please note that the direct report may include the General Counsel because the speaker may continue the practice of centralizing the Council's EEO policies and practices through the OGC... (Pg. 9.)*

EEPC Response: The EEPC accepts the agency's response to corrective action #14. Implementation of this corrective action will be monitored.

#### **Corrective Action #15**

Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

Agency Response: *... given that the Council is a relatively small entity, many meetings between the principal EEO professionals and the agency head are held as needed. Those meetings and communications involve the Council's Ethics and Employment Counsel and result in attorney client communications that are privileged. As a result, the Council is unable to provide documentation of the meetings and other communications between the agency head and principal EEO professionals. (Pg. 9.)*

EEPC Response: To ensure the integrity and continuity of the EEO Program, appropriate documentation of decisions that impact the administration and operation of the agency's EEO program must be maintained. It is unclear whether or not the Council documents and maintains decisions made with regard to EEO Program implementation as a practice. Implementation of this corrective action will be monitored.

**Corrective Action #16**

Require that managers and supervisors emphasize the agency's commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Document this requirement and its implementation.

Agency Response: ...The Council will recommend to the next Speaker that he or she send a memorandum to all central staff supervisors emphasizing the Council's commitment to its equal employment policies and affirming the right of each employee to utilize the Council's complaint procedure. (Pg. 9.)

EEPC Response: The EEPC accepts the agency's response to corrective action #16. Implementation of this corrective action will be monitored.

**Corrective Action #17**

Develop and implement a plan, which includes a timetable, to conduct annual performance evaluations of all managerial and non-managerial employees.

Agency Response: The Council does not have and is not required by law to have an annual performance evaluation process. (Pg. 5.) ...after an assessment of the performance evaluation process and in consultation with the OGC, the Council made the determination not to conduct performance evaluations. Since Council employees are unclassified under the state and city civil service laws... this determination is consistent with applicable laws and mandates relevant to the Council. (Pg. 9 and 10)

EEPC Response: It is this Commission's position that every head of a city agency must establish and administer a performance evaluation program for managerial and non-managerial employees to be used during the probationary period and for promotions, assignments, incentives and training. Use of an annual performance evaluation system justifies an agency's actions regarding terms and conditions of employment (e.g. reasons for promotion, assignments, incentives, training, termination, etc.). Implementation of this corrective action will be monitored.

**Corrective Action #18**

Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response: The Council does not have and is not required by law to have an annual performance evaluation process. (Pg. 5.) ...after an assessment of the performance evaluation process and in consultation with the OGC, the Council made the determination



*not to conduct performance evaluations. Since Council employees are unclassified under the state and city civil service laws... this determination is consistent with applicable laws and mandates relevant to the Council. (Pg. 9 and 10)*

**EEPC Response:** It is this Commission's position that including an EEO rating as a component of the annual performance evaluation ensures managerial accountability and adherence to EEO policies and practices. Managers and supervisors are responsible for effectively implementing EEO-related policies and performing managerial or supervisory responsibilities in a non-discriminatory manner (i.e. making employment decisions based on merit and equal consideration and treating employees in an equitable and impartial manner). Implementation of this corrective action will be monitored.

### **Conclusion**

The New York City Council has 12 corrective actions which require monitoring.

As the EEPC concludes its audit of your agency's EEO Program, Chapter 36 Section 832.c of the New York City Charter, as amended, requires: 1) the agency provides a written response within 30 days from the date of this letter and 2) the EEPC assign a 6-month compliance period to monitor your agency's efforts to eliminate remaining required corrective actions. Your agency's compliance-monitoring period is scheduled for: January 2014 to June 2014.

**If no corrective actions are remaining:** Your agency is exempt from the aforementioned monitoring period. However, as a last step, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit/analysis and re-emphasizes commitment to the EEO program. This will be considered your agency's final action. Upon receipt of the memo, a *Determination of Compliance* will be issued.

**If corrective actions are remaining:** Your agency's response should indicate (with attached documentation) what steps your agency has taken, or will take, to implement the corrective actions. Upon your agency's completion of the final corrective action, and tender of the final memorandum, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance process, please have the Principal EEO Professional call Judith Garcia Quiñonez, Deputy Director/ Agency Counsel at 212-615-8939.

Thank you and your staff for your continued cooperation.



**Equal Employment  
Practices Commission**

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar A. Perez".

Cesar A. Perez, Esq.  
Chair

c: Peg Toro, NYCC, Principal EEO Professional  
Charise L. Hendricks, EEPC Executive Director  
Judith Garcia Quiñonez, EEPC Deputy Director/Agency Counsel

**EQUAL EMPLOYMENT PRACTICES COMMISSION  
CITY OF NEW YORK**

**RESOLUTION #13/32-102:** Final Determination pursuant to the audit and analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 through June 31, 2012.

**Whereas**, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

**Whereas**, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

**Whereas**, pursuant to its audit and analysis of the New York City Council's (NYCC) EEO Program, the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated October 18, 2013, setting forth the following findings and required corrective actions:

1. Include in the complaint file a *Discrimination Complaint Form* or a *complaint* that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.
2. Generate a report labeled "Confidential" consisting of *Facts, Analysis, Conclusion, Recommendation*, and *Agency Head's Review* at the conclusion of each complaint investigation.
3. Ensure that internal discrimination complaint files contain written indication of their outcomes and corrective action(s) taken as a result of the determination made in its complaint investigation.
4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where agencies may otherwise use discretion in hiring.

5. [Ensure] the principal EEO Professional, HR Professional and General Counsel review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
6. Assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
7. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
8. Demonstrate that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).
9. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
10. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
11. Re-distribute the identity and responsibilities of the Disability Rights Coordinator to ensure that employees are aware of this information.
12. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
13. Establish guidelines for accessibility of the satellite or district offices and implement a plan that will ensure incumbents and new council members receive and adhere to the Council's guidelines, as well as its reasonable accommodation procedures.
14. Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO



Policy and Annual EEO Plan.

15. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
16. Require that managers and supervisors emphasize the agency's commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Document this requirement and its implementation.
17. Develop and implement a plan, which includes a timetable, to conduct annual performance evaluations of all managerial and non-managerial employees.
18. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Whereas**, the NYCC submitted its response to the EEOC's preliminary determination letter, on November 8, 2013 with documentation of its actions to rectify required corrective actions nos. 1, 2, 3, 4, 11 and 12; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEOC considered the agency's response and issued a Final Determination on December 19, 2013 which agreed and accepted documentation for implementation of the aforementioned corrective actions, and indicated that corrective action(s) nos. 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, and 18 require compliance monitoring; and

**Whereas**, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEOC is required to monitor NYCC for a period not to exceed six months, from January 2014 through June 2014, to determine whether it implemented remaining required corrective actions; and

**Whereas**, in accordance with Chapter 36, Section 832 (c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of implementation of such corrective actions; and

**Whereas**, all of the EEOC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

**Be It Resolved,**

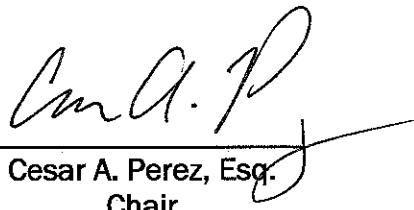
that the Commission authorizes Chair Cesar Perez to forward its Final Determination to Charles Meara, Chief of Staff of the New York City Council.

Approved unanimously on December 19, 2013.

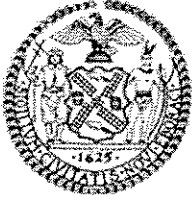
Angela Cabrera  
Commissioner

Malini Cadambi Daniel  
Commissioner

Elaine S. Reiss, Esq.  
Commissioner



Cesar A. Perez, Esq.  
Chair



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
OFFICE OF THE GENERAL COUNSEL  
250 BROADWAY, 15TH FLOOR  
NEW YORK, N.Y. 10007

JEFFREY P. METZLER  
ACTING GENERAL COUNSEL

TEL: (212) 788-9131  
E-MAIL: JMETZLER@COUNCIL.NYC.GOV

March 7, 2014

Cesar A. Perez, Esq.  
Chair, New York City Equal Employment Practices Commission  
253 Broadway, Suite 602  
New York, NY 10007

Re: Resolution #: 13/32-102 Final Determination Pursuant to the Audit and Analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012.

Dear Mr. Perez:

This letter will serve as the Council of the City of New York's ("Council") response to the Equal Employment Practices Commission's ("Commission") Final Determination Pursuant to the Audit and Analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012 ("Final Determination").

Thank you for your continued work with the Council during your review of its equal employment program. Since the Commission issued its Final Determination, the Council has elected a new speaker, Melissa Mark-Viverito. Speaker Mark-Viverito is committed to continuing and improving upon the Council's equal employment policies and practices to ensure that the Council maintains a workplace free of discrimination, harassment and any other barriers to access that employees may face.

Speaker Mark-Viverito is currently conducting a thorough review of Council policies and practices, with particular attention being given to the recommendations made by the Commission. As indicated in the Final Determination, the Council has already implemented plans and processes to address almost all of the recommended corrective actions made by the Commission. Specifically, Speaker Mark-Viverito will direct the Council's Administrative Services Division and Office of the General Counsel to continue to address and review the following practices:

- (i) Annual review of statistical information and employment practices (Corrective Action #5);
- (ii) Use of job postings, career fairs and minority and women focused recruitment resources to attract minority and women candidates (Corrective Action #7);
- (iii) Training for all managers and supervisors who interview candidates on interviewing, selection and hiring skills (Corrective Action #8);

- (iv) When appropriate, notify current employees of promotion and transfer opportunities within the Council (Corrective Action #9);
- (v) Evaluate the accessibility of Council members' district offices (Corrective Action #13);<sup>1</sup>
- (vi) Maintain an updated organizational chart reflecting newly implemented staff changes, including the reporting relationship between the principal EEO professionals and the Agency Head (Corrective Action #14);
- (vii) Document meetings and other communications between principal EEO professionals and the Agency Head (Corrective Action #15); and
- (viii) Instruct supervisors and managers to emphasize the Council's commitment to its equal employment program and that all Council employees are encouraged to utilize the Council's complaint procedure (Corrective Action #16).

In addition, the Council will work with Central staff and Council members to continue to ensure that (i) hiring practices do not adversely impact any particular group and (ii) only job-related criteria that do not have an adverse impact on any group are used (Corrective Action #6), and is currently reviewing the feasibility of conducting regular performance evaluations for all Central staff employees. Corrective Action #17 & 18.

Finally, after conferring with the Law Department, the Council has determined that it is not feasible at this time to use and maintain an applicant/candidate log or tracking system ("Log"). Corrective Action # 10. As the Council noted in its response to the Commission's Preliminary Determination, the Council is a decentralized institution with 51 independently elected Council members. Council staff consists of approximately five aides for each Council member, who is largely autonomous in his/her hiring process and decisions, and a Central staff. The information in any Log would be based only on what candidates self-report, which would necessarily result in incomplete and potentially skewed data. These data would be skewed further by the inconsistencies in implementation that are certain to occur across the 51 different offices. Therefore, the Council has concluded that the costs of implementing the recommended Log would far outweigh any potential benefits of maintaining what would inevitably be an incomplete and unreliable Log.

Thank you, again, for your work with the Council on conducting an extensive review of its equal employment practices and procedures. As you know, the Council takes these matters very seriously, and is committed to maintaining a fair and inclusive workplace for all employees. We look forward to continuing to work with the Commission as we implement the practices set forth above to ensure that the Council has even stronger equal employment policies.

Very truly yours,



Jeffrey P. Metzler

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<sup>1</sup> A copy of the memorandum on office accessibility and the search form used by Council members is attached.



## **MEMORANDUM**

TO: Council Members & Council Employees

FROM: Melissa Mark-Viverito, Speaker

RE: Equal Employment Opportunity

DATE: November 7, 2014

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As you know, the Council is committed to maintaining a workplace free of discrimination and harassment. Attached you will find the Council's newly revised Anti-Discrimination and Harassment Policy ("Policy").

This Policy prohibits discrimination against any employee or job applicant on the basis of one or more of the following characteristics: his or her race, color, creed, religion, national origin, alienage or citizenship, sex, gender identity and expression, age, disability, sexual orientation, partnership status, medical condition (including having or being perceived as having HIV/AIDS-related conditions), marital status, family status, genetic information or predisposing genetic characteristic, status as a victim of domestic violence, sex offenses or stalking, military status, prior arrest or conviction, unemployment status, for having made a complaint or participating in an investigation under this Policy or any other characteristic to the extent protected by federal, state or local law.

Employees are strongly encouraged to report discrimination or harassment in violation of the Policy before it becomes severe or pervasive. Reports may be made to your supervisor, the EEO Officer or a member of the Equal Employment Committee ("EEC"). The Council's EEO Officer is Peg Toro ([ptoro@council.nyc.gov](mailto:ptoro@council.nyc.gov), 212-788-6936). The Members of the EEC are:

- Traci Sanders, Economic & Community Development, [REDACTED]
- Milo Inglehart, Policy & Innovation, [REDACTED]
- Chima Obichere, Finance, [REDACTED]
- Shirley Limongi, Communications, [REDACTED]
- Joyce Li, Community Engagement, [REDACTED]
- James Subudhi (Alternate), Human Services, [REDACTED]
- Lesbia Lopez (Alternate), Administrative Services, [REDACTED]

To further reinforce the Council's commitment to equal employment opportunities, the Council took multiple steps this year to bolster our equal employment practices, which include but are not limited to:

- Revised the Anti-Discrimination and Harassment Policy;
- Revised the role of and procedures for the Equal Employment Committee;
- Formalized an annual process for reviewing employment practices and data to identify areas for improvement;
- Created guidance and assistance for managers in the recruiting and hiring process; and
- Developed written training materials for annual anti-discrimination and harassment trainings.

**EQUAL EMPLOYMENT PRACTICES COMMISSION  
CITY OF NEW YORK**

**RESOLUTION #2016/102C-07:** Determination of Compliance by the New York City Council with the Equal Employment Practices Commission pursuant to its audit and analysis of the New York City Council's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012.

**Whereas**, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

**Whereas**, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits and Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

**Whereas**, pursuant to its audit and analysis of the New York City Council's (NYCC) EEO Program, the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated October 18, 2013, setting forth findings and the following required corrective actions:

1. Include in the complaint file a Discrimination Complaint Form or a complaint that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.
2. Generate a report labeled "Confidential" consisting of Facts, Analysis, Conclusion, Recommendation, and Agency Head's Review at the conclusion of each complaint investigation.
3. Ensure that internal discrimination complaint files contain written indication of their outcomes and corrective action(s) taken as a result of the determination made in its complaint investigation.
4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where agencies may otherwise use discretion in hiring.
5. The principal EEO Professional, HR Professional and General Counsel review the

agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

6. Assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
7. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
8. Demonstrate that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).
9. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
10. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
11. Re-distribute the identity and responsibilities of the Disability Rights Coordinator to ensure that employees are aware of this information.
12. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
13. Establish guidelines for accessibility of the satellite or district offices and implement a plan that will ensure incumbents and new council members receive and adhere to the Council's guidelines, as well as its reasonable accommodation procedures.
14. Indicate the reporting relationship between the principal EEO Professional and agency

head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.

15. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
16. Require that managers and supervisors emphasize the agency's commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Document this requirement and its implementation.
17. Develop and implement a plan, which includes a timetable, to conduct annual performance evaluations of all managerial and non-managerial employees.
18. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Whereas**, the New York City Council submitted its response to the EEP's preliminary determination letter, on November 8, 2013, with documentation of its actions to rectify required corrective actions #1, #2, #3, #4, and #11; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEP considered the agency's response and issued a Final Determination on December 19, 2013, which agreed and accepted documentation for implementation of the aforementioned corrective actions, with corrective actions #5, #6, #7, #8, #9, #10, #12, #13, #14, #15, #16, #17 and #18, remaining; and

**Whereas**, on January 17, 2014 the EEP granted the NYCC's January 13, 2014 request for an extension of time to respond to the EEP's Final Determination; and

**Whereas**, on February 25, 2014 the EEP granted the NYCC's February 21, 2014 request for additional time to respond to the EEP's Final Determination; and

**Whereas**, the NYCC submitted its response to the EEP's Final Determination letter, on March 7, 2014; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEP monitored the agency's implementation of the remaining corrective actions for the six-month period from April 2014 to October 2014; and

**Whereas**, on October 31, 2014 the EEP granted the NYCC's September 22, 2014 request for an extension of the compliance monitoring period to November 13, 2014 in order to complete implementation of outstanding corrective actions; and

**Whereas**, at the EEP's request pursuant to Section 815.a.(15) of the New York City



Charter, the NYCC submitted a copy of the agency head's memorandum to staff dated November 7, 2014, which outlined the corrective actions implemented in response to the EEPCC's audit and reiterated her commitment to the agency's EEO Program; and

**Whereas**, on November 13, 2014, the NYCC submitted its Final Compliance Monitoring Report, which demonstrated that the NYCC implemented 15 of 18 corrective actions; and

**Whereas**, on February 10, 2015, the Commission formally extended the NYCC's compliance monitoring period, to allow the agency to resolve or take steps to toward remedying the remaining corrective actions, #10, #17 and #18; and

**Whereas**, on February 27, 2015, the NYCC declined the Commission's extension and asserted that as New York City's legislative body, an independent branch of city government, it was not subject to the EEPCC's jurisdiction; and

**Whereas**, on March 30, 2015, the Commission requested the New York Law Department to issue a formal opinion on the matter of the EEPCC's jurisdiction to audit and monitor the employment practices of the New York City Council; and

**Whereas**, on May 14, 2015, the New York Law Department issued a Memorandum confirming the Charter authorizes the Equal Employment Practices Commission to audit and monitor the employment policies, programs and practices of the New York City Council; and

**Whereas**, on June 3, 2015, the EEPCC transmitted the Law Department's Memorandum to the NYCC and requested the agency to respond with its intention to implement the prescribed corrective actions within 30 days; and

**Whereas**, on July 30, 2015, the Commission postponed issuance of the New York City Council's pending Determination of Partial Non-compliance in order to accommodate a request from the New York Law Department; and

**Whereas**, the Commission made subsequent requests to resume discussions on the remaining corrective actions, including but not limited to e-mails and telephone calls to the Council's General Counsel and Chief of Staff, as well as other representatives; and

**Whereas**, the Commission and the NYCC resumed discussions and participated in concerted efforts which include collaborative meetings held on December 30, 2015 and February 18, 2016 and subsequent telephone conferences to discuss implementation of the remaining corrective actions; and

**Whereas**, in accordance with Chapter 36, Section 832(c), the EEPCC considered and accepted documentation submitted on March 23, 2016, which demonstrated the NYCC's implementation of corrective actions #10, #17, and #18;

**Whereas**, all of the EEPCC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job


applicants identified for protection from discrimination in employment within municipal government; and

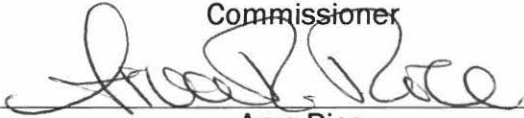
**Whereas**, the Equal Employment Practices Commission is empowered by the New York City Charter, Chapter 36, Section 832(c), to publish a report after the Commission determines that an agency has not taken appropriate and effective corrective action to correct non-compliance with the equal employment opportunity standards of this Commission and requirements of Chapter 36 of the New York City Charter; Now Therefore,


**Be It Resolved**, that the New York City Council implemented the required corrective actions deemed necessary to ensure compliance with equal employment opportunity standards of this Commission and the requirements of Chapter 36 of the New York City Charter; and

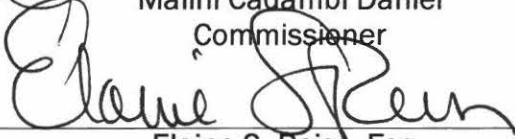
**Be It Finally Resolved**, that the Commission will forward its Final Resolution to the Honorable Melissa Mark-Viverito, Speaker of the New York City Council.

Approved unanimously on March 24, 2016,

  
\_\_\_\_\_  
Angela Cabrera  
Commissioner

  
\_\_\_\_\_  
Arva Rice  
Commissioner

  
\_\_\_\_\_  
Malini Cadambi Daniel  
Commissioner

  
\_\_\_\_\_  
Elaine S. Reiss, Esq.  
Commissioner



Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva R. Rice  
Commissioners

Charise L. Terry, PHR  
Executive Director

Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/  
Deputy Director

Marie Giraud, Esq.  
Agency Attorney/  
Director of Compliance Monitoring

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 615. 8931 fax

March 24, 2016

Honorable Melissa Mark-Viverito  
Speaker  
Council of the City of New York  
City Hall  
New York, New York 10007

Re: Resolution #2016/102C- 07: Determination of Agency Compliance

Dear Honorable Mark-Viverito:

On behalf of the members of the Equal Employment Practices Commission (EEPC or Commission), I want to formally inform you that the Commission has issued the attached Determination of Compliance to the New York City Council. This Commission has determined that the New York City Council has implemented the required corrective actions deemed necessary by this Commission for ensuring a fair and effective affirmative employment program of equal opportunity as required by the equal employment opportunity standards of this Commission and Chapter 36 of the New York City Charter.

On behalf of this Commission, I want to thank you and the members of your staff for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine S. Reiss". The signature is fluid and cursive, with the first name "Elaine" and last name "Reiss" clearly distinguishable.

Elaine S. Reiss, Esq.  
Commissioner

c: Peg Toro, Principal EEO Professional, NYCC  
Jason Otaño, Deputy General Counsel, NYCC  
Marie E. Giraud, Esq. Agency Attorney/Director of Compliance, EEPC



EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION

This  
**Determination of Compliance**

is issued to the

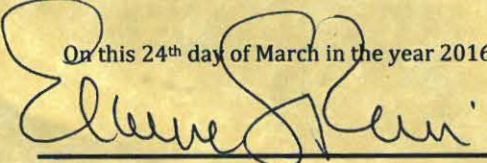
**New York City Council**

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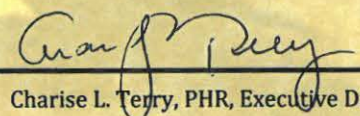
*for successfully implementing 18 of 18 required corrective actions pursuant to the Equal Employment Practices Commission's  
Employment Practices and Procedures Audit for the period from July 1, 2009 to this date.*

*In care of Speaker of the NYC Council, Melissa Mark-Viverito  
and Principal EEO Professional Peg Toro*

On this 24<sup>th</sup> day of March in the year 2016,



Elaine S. Reiss, Esq., Commissioner



Charise L. Terry, PHR, Executive Director